

PalArch's Journal of Archaeology of Egypt / Egyptology

CRIMINAL LIABILITY RESPONSIBILITY AGAINST PRESIDENT OR VICE PRESIDENT

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**Dyas Tazza Ulima, ToetikRahayuningsih. Criminal Liability Responsibility Against
President Or Vice President--Palarch's Journal Of Archaeology Of Egypt/Egyptology
17(4), 2555-2560. ISSN 1567-214x**

Keywords: criminal, insulting the president or vice president, responsibility

ABSTRACT:

Based on the basis of the interests of realizing the ideals and goals of a country, Indonesia gives power to the President and Vice President as representatives of the state in conducting the pace of government whose position and existence are highly protected. One of the efforts to provide protection for the president and vice president is through an insult to the president or vice president which is regulated in Article 134, Article 136 and Article 137 of the Criminal Code (KUHP). Legal subjects that can be liable for criminal liability of contempt of the president or vice president are individuals as well as individuals and corporations. To find out the arrangements for insulting the president or vice president and their comparison with the Netherlands, Germany, and Thailand and their forms of accountability. Type of legal research used the rule of law approach, conceptual approach, and comparative approach. Material sources consisted of primary legal materials, secondary legal materials, and non-legal materials. The source of primary legal material came from laws and regulations, the source of secondary legal material was obtained from legal publications and non-legal material was obtained from the seminar. Regulatory insults to the president or vice president are regulated in Article 207 of the Criminal Code, the Broadcasting Law and the ITE Law. This arrangement is different from the Criminal Code in the Netherlands, Germany and Thailand which regulates the rules of insulting the head of state as a separate legal rule that is different from the insult to people in general. Legal subjects that can be liable for criminal liability for an insult against the president or vice president are individuals (in the Criminal

Code and Broadcasting Law) as well as individuals and corporations (in the ITE Law). The types of criminal sanctions that can be imposed are imprisonment or fines against individuals, while those that can be imposed on corporations are criminal fines.

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INTRODUCTION

A country can be seen as an association of people who live and work together to pursue several common goals. Thus, it can be said that the ultimate goal of each country is creating happiness for its people (*bonumpublicum*, common good, common wealth)(Budiardjo, 2003; Duncan, 2010; Oishi and Diener, 2014; Jones *et al.*, 2017; Bexell and Jönsson, 2019; Leal Filho *et al.*, 2019). It has been clearly stated in the Constitution of Indonesia that the aim of Indonesian is establishing an Indonesian government to protect the entire Indonesian nation and all of Indonesian and promote public welfare, educate the nation's life, and participate in performing world order based on independence, lasting peace, and social justice based on the Almighty God, fair and civilized humanity, the unity of Indonesia, and people who are led by wisdom in the deliberation of representation, and realizing a social justice for all the people of Indonesia.

Based on the basis of the interests of realizing these ideals and goals, Indonesia grants power to the president as a representation of the state that leads the pace of government. In conducting its obligations, the president is assisted by one vice president. Considering the fact that president and vice president are elected directly by the people of Indonesia, the elected president and vice president have a strong position because they are supported directly by the people. Thus, it can be seen that the president and vice president of the Republic of Indonesia are representatives of the Unitary State of the Republic of Indonesia and all the people of Indonesia whose position and existence are highly protected.

The terms and conditions for becoming a president and a vice president are very strict. It needs to be someone to be able to occupy or at least run for the position of "number one and number two" in the Republic of Indonesia. For this reason, an elected president and vice president should be given protection from any external interference that could endanger the president and vice president. The granting of protection is also bearing in mind the heavy obligations imposed by the president and vice president in performing state duties which are the objectives of the Republic of Indonesia.

According to the limitations on the conditions for the establishment of a country, an understanding can be drawn that any act that can disturb the stability of the state or provide negative information about the country to another one can be categorized as a party that has committed acts that do not reflect a sense of responsibility towards state safety. It can be said that the person has committed a crime against the country. As an effort to protect the

president and / or vice president, the Criminal Code (hereinafter abbreviated as the Criminal Code) has regulated the substance of crimes against State security in Chapter I of the Second Book whose formulations are formulated by using the words, president and / or vice president "as subject protected under these conditions. The use of the word "president and / or vice president" in the formalization illustrates that the president and / or vice president as head of state and head of government of the Unitary State of the Republic of Indonesia is a subject considered to be a reflection of the Unitary State of the Republic of Indonesia (Waluyadi, 2003).

The systematic arrangement of crime against state security is regulated at the earliest time. It is because the crime against state security occupies the most important and highly protected position due to it involves the lives of the Indonesian people. Another provision that provides protection for the president and / or vice president is the regulation concerning criminal threats relating to crimes against the dignity of the president or vice president (insulting the president or vice president). These provisions are regulated in Article 134, Article 136 and Article 137 of the Criminal Code as stipulated in Chapter II of the Second Book of the Criminal Code. The security of the head of state is expected to be guaranteed with the law governing the protection of the president and vice president.

RESEARCH METHODS

This research used the type of legal research. The goals to be achieved in legal research are finding the coherence truth, such as whether there were legal rules in accordance with legal norms and whether norms in the form of orders or prohibitions were in accordance with legal principles, and whether one's actions were in accordance with legal norms (not only according to the rule of law) or legal principles. The problem approach used in this study included the regulatory approach, the conceptual approach, and the comparative approach. Material sources consisted of primary legal materials, secondary legal materials, and non-legal materials. The source of primary legal material came from laws and regulations, the source of secondary legal material was obtained from legal publications, and non-legal material obtained from seminars with topics related to the formulation of problems in this study (Marzuki, 2017).

RESULTS AND DISCUSSION

Insults to the president or vice president are defined as "deliberate insults" in which it is any kind of acts that attack the good name, dignity or greatness of the president or vice president, including all kinds of humiliation that applies to people in general. The insults that apply to people are generally divided into 6 (six) types, namely: defamation (*smaadschrift*), slander (*laster*), mild insults (*eenvoudigebeledigings*), complain slanderously (*lasterlijke aanklacht*), and accusations of defamation (*lasterlijke verdachtmaking*) (Indonesia and (R.), 1976; Soesilo, 1979).

According to these various forms of insults, it can be seen that insults can be performed verbally or non-verbally. Insults in the form of writing in question are not just simply a letter. Newspapers, magazines, bulletins, and other print media can also be used as a means to insult the president or vice president. Insults to the president or vice president through newspapers, magazines, bulletins, and other print media can be performed not only by writing, but also pictures as well.

The means used in committing a criminal offense against the president or vice president can be completed through broadcasted media, such as radio and television. Given the technological developments that has been running today, the internet can also be used as a means of committing criminal offenses which is an insult to the president or vice president. The table below explains the comparative arrangements for insulting the president and vice president and their forms of responsibility in Indonesia, Netherlands, Germany, and Thailand

Table 1. Comparison of arrangements for insulting the president and vice president and forms of accountability in Indonesia, Netherlands, Germany, and Thailand

State	Constitution	Responsibility
Indonesia	KUHP Article 134, Article 136 bis, Article 137	The maximum imprisonment is six years or a maximum fine of three hundred million rupiah.
	Constitution No. 32, 2002 concerning about broadcasting	The maximum imprisonment is a maximum of 5 years and / or a maximum fine of one billion rupiah
		for radio broadcasting and imprisonment for a maximum of five years and / or a maximum fine of ten million rupiahs
	Constitution No. 11, 2008 concerning about Information and Electronic Transaction	The maximum imprisonment is six years and / or a maximum fine of one billion rupiah.
Netherland	Grondwetvoor het Koninkrijk der Nederlanden Haatzaai Artikelen (Articles concerning about hate speech as an effect of defamation against royal dignity)	A maximum imprisonment is four years in prison or a fourth category fine
Germany	Grundgesetz für die Bundesrepublik German Article 1 Grundgesetz für die Bundesrepublik German Deutsches Strafrechtsgesetzbuch/ Germany Criminal Code	A maximum imprisonment is three months to five years.

Thailand	Section 45 Paragraph 1 & 2 Thailand's Constitution of 2007 Thailand Penal Code Book II Title I Offences Relating to the Security of the Kingdom	A maximum prison sentence is one year and / or a maximum fine of 200,000 Baht.
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CONCLUSION

The regulation for insulting the president or vice president are regulated in Chapter XVI of the Criminal Code explains insults to people in general. In the case of insults directed to the president or vice president as officials, the used rule is Article 207 of the Criminal Code. In addition to the Criminal Code, rules that can be applied in cases of insults to the president or vice president are also regulated in the Law and the Electronic information and transactions Law. This regulation is different from the Criminal Code in Netherlands, Germany, and Thailand which regulates the rules of insulting the head of state as a separate legal rule that is different from the insult to people in general.

Legal subjects that can be liable for criminal liability for an insult against the president or vice president are individuals (in the Criminal Code and Broadcasting Law) as well as individuals and corporations (in the Electronic information and transactions Law). The types of criminal sanctions that can be imposed are imprisonment or fines against individuals, while those that can be imposed on corporations are criminal fines. The maximum crime that can be charged to the offender would Electronic information and transactions the same as the criminal if the victim of the crime is a person in general. Commonly, such a criminal can be handed down, if there is a clear rule of law that is violated by the Actor, there is an element of error in the Actor's actions as well as a complaint from the president or vice president who is a victim.

REFERENCES

- Bexell, M. and Jönsson, K. (2019) 'Country Reporting on the Sustainable Development Goals—The Politics of Performance Review at the Global-National Nexus', *Journal of Human Development and Capabilities*. Taylor & Francis, 20(4), pp. 403–417.
- Budiardjo, M. (2003) *Dasar-dasar ilmu politik*. Gramedia pustaka utama.
- Duncan, G. (2010) 'Should happiness-maximization be the goal of government?', *Journal of happiness Studies*. Springer, 11(2), pp. 163–178.
- Indonesia and (R.), S. (1976) *Kitab undang-undang hukum pidana (KUHP): serta komentar-komentarnya lengkap pasal demi pasal*. Politeia.
- Jones, P. et al. (2017) 'The sustainable development goals and information and communication technologies', *Indonesian Journal of Sustainability Accounting and Management*, 1(1), pp. 1–15.
- Leal Filho, W. et al. (2019) 'Using the sustainable development goals towards a better understanding of sustainability challenges', *International Journal of Sustainable Development & World Ecology*. Taylor & Francis, 26(2), pp. 179–190.

- Marzuki, M. (2017) *Penelitian Hukum: Edisi Revisi*. Prenada Media.
- Oishi, S. and Diener, E. (2014) 'Can and should happiness be a policy goal?', *Policy Insights from the Behavioral and Brain Sciences*. SAGE Publications Sage CA: Los Angeles, CA, 1(1), pp. 195–203.
- Soesilo, R. (1979) *Pokok-pokok hukum pidana: peraturan umum dan delik-delik khusus*. Politeia.
- Waluyadi (2003) *Hukum Pidana Indonesia*. Jakarta: Djambatan.