



Does the Existence of Definition Phrase About Human Rights?

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Abstract

The purpose of using legal interpretation is to provide a clear definition of the phrase “despicable act” especially with Hans-Georg Gadamer's method of thinking. Disgraceful behavior is an act that is against sexual deviation. In the end, the phrase "despicable act" violates the human rights of the President and/or the Vice President. Within the scope of a state, legal certainty is an absolute thing so that the highest goal of law, namely legal justice, will be achieved. Two legal functions, namely the function of upholding legal justice and upholding legal certainty, because legal justice and legal certainty are two legal values that are often questioned and interpreted as the search for certain justice or just certainty. Various literatures state that the phrase "despicable act" is an uptake of foreign language, namely despicable action. Textually, disgraceful actions are related to constitutional theory whose ultimate goal is to defend the constitution of a country.

Keywords: *Disgraceful Act; President; Human Rights*

Introduction

In examining human rights, there are always conflicts. Controversy can be in the form of rejection of a norm, approval of a policy or omission of an action. When there is a limit in a statutory regulation, the limitation is a reduction in a person's human rights.¹ Deduction is not always a bad meaning but as a form of appreciation for the existence of others.

Looking at Article 7B of the Indonesian Constitution, it is known that a President and/or Vice President can be reported to the Constitutional Court on charges of violating the law, namely treason against the state, committing corruption, bribery, serious crimes, despicable acts and it is proven that they no longer meet the requirements as President and/or the Vice President. Up to this moment, disgraceful actions have been defined as actions that lower one's dignity. Such a definition will give rise to legal problems and the focus of disgraceful acts is the one examined in this study.

¹ Tomy Michael, 'RIGHT TO HAVE RIGHTS', *Mimbar Keadilan*, 2017, 106 <<https://doi.org/10.30996/mk.v0i0.2203>>.

For example, he interpreted Nancy Pelosi as impeachment, where she accused President Donald Trump of conspiring with Russia over the 2016 election. Donald Trump accused Ukraine of being a political opponent.² The second example is the marriage of the Regent of Garut, Aceng Fikri, which was carried out on July 14, 2012, which was held at Aceng's private house in Copong Garut. The Siri marriage took place at 19.30.WIB. K.H Abdurrozaq who married the two brides in siri or religiously without official state records. K.H. Sa'idin Gufron and A. Jahidin witnessed this siri marriage. Guests who attend the Siri marriage are limited to the close family of the bride and groom. The initial implementation of this siri marriage did seem strange and odd, because Aceng Fikri forbade the documentation of this event, in order to maintain the security and privacy of the Regent's position. Documentation only through Blackberry Aceng and Fanny. This young woman, a graduate of SMA Sukabumi, wanted to marry the Regent because she was promised an Umrah and received tuition fees at the Midwifery Academy. Three days after getting married, to be precise July 17 2012 Aceng Fikri via short message gave divorce to Fany, because Fanny was no longer a virgin. In order to cover up his disgrace, who was only married for four days with Fany, Aceng made a letter of agreement with Fany on August 16, 2012 in which Fany would not disturb Aceng again in exchange for some money.³

To produce a suitable legal answer, the researcher uses Hans-Georg Gadamer's thinking. With the hermeneutical thinking will produce answers to the formulation of the problem whether the absence of the phrase disgraceful act violates human rights?

Methods

This study uses a normative legal research method and the approach is legal interpretation.⁴ The purpose of using legal interpretation is to provide a clear definition of the phrase "despicable act" especially with Hans-Georg Gadamer's method of thinking.

Results and Discussion

The Argument Against Disgraceful Conduct

Within the scope of a state, legal certainty is an absolute thing so that the highest goal of law, namely legal justice, will be achieved. Two legal functions, namely the function of upholding legal justice and upholding legal certainty, because legal justice and legal certainty are two legal values that are often questioned and interpreted as the search for certain justice or just certainty. Various literatures state that the phrase "despicable act" is an uptake of foreign language, namely despicable action.⁵ Textually, disgraceful actions are related to constitutional theory whose ultimate goal is to defend the constitution of a country. The question that arises is who has the right to make a constitutional interpretation? The answer is that the senate and the interpretive process ultimately produced a law that was too late to implement.⁶ An exception occurs when a state is not part of a modern form of government but uses the

² Byron York, 'On Trump Impeachment, Democrats Pivot Back to Russia', *Washington Examiner*, 2019.

³ Ahmad Mukri Aji, 'Pemakzulan Kepala Daerah Di Era Otonomi Daerah Dalam Perspektif Politik Dan Hukum; Analisis Kasus Prosesi Pemakzulan Bupati Garut Aceng Fikri', *SALAM: Jurnal Sosial Dan Budaya Syar-I*, 2016 <<https://doi.org/10.15408/sjsbs.v3i1.3312>>.

⁴ Tomy Michael, 'Tourism Law (Study on the Dutch Cemetery in Peneleh Surabaya)', *DiH: Jurnal Ilmu Hukum*, 2019 <<https://doi.org/10.30996/dih.v15i2.2466>>.

⁵ JAKA MULYATA, 'Keadilan, Kepastian, Dan Akibat Hukum Putusan Mahkamah Konstitusi Republik Indonesia Nomor : 100/Puu-X/2012 Tentang Judicial Review Pasal 96 Undang-Undang Nomor : 13 Tahun 2003 Tentang Ketenagakerjaan.', *Perpustakaan.Uns.Ac.Id*, 2015.

⁶ Neil Kinkopf, 'The Scope Of "High Crimes And Misdemeanors" After the Impeachment of President Clinton', *SSRN Electronic Journal*, 2005 <<https://doi.org/10.2139/ssrn.256851>>.

teachings of communism as its main reference, thus the main interpretation is the property of the state as a whole.⁷

Another thing in August 2014, Federal District Judge Mark Fuller was arrested on charges of misconduct after his wife called 911 from an Atlanta Hotel room and told the operator, "He beat me." Judge Fuller has agreed to enter into the pre-trial diversion program; if he finishes the program, the criminal case against him will be dismissed. But Judge Fuller may face other consequences if he does not resign, impeachment on his own.

Can the House of Representatives rely on criminal convictions as a basis for impeachment? Can the House of Representatives proceed with impeachment if criminal charges are dropped?⁸ From the comparison of the two examples, the phrase "disgraceful act" is identical to the interpretation of the parties so that it gives rise to very many meanings. The phrase "disgraceful act" is actually part of upholding the country because if a country is prone to fluctuations, its stability will lead to dissolution. "The phrase" disgraceful act "in the Indonesian context depends on the prevailing law in society so that anyone is able to interpret it carefully. There is an interpretation that follows legal reasoning and must understand the sources of formal law, namely laws, customs and traditions, treaties, treaties, permanent jurisprudence and doctrine. The main source of law in positive law in Indonesia is statutory regulations (written law), however, laws and regulations (written law) are often left behind by the development of society. To fill the void of statutory regulations (written law) and the search for the meaning and meaning of a statutory regulation, in legal science it is known as legal construction and interpretation (legal interpretation).⁹

Reconception of the Phrase "Disgraceful Deeds" with Interpretation

Referring to Hans-Georg Gadamer's thought to interpret the close original relationship between these forms of hermeneutics depends on recognizing application as an integral element of all understanding. Law here is not understood historically but is concretely considered valid through interpretation. In the same way a religious statement is not to be understood solely as a historical document but is understood in a way which shows its saving effect. This includes the fact that the text, whether it is law or scripture, if properly understood, that is, according to what is made, it must be understood at every event in every special situation, in a new and different way. The understanding here is always an application. In interpreting the phrase disgraceful act, a method is the subject of the whole truth and the method is not a topic in detail that is placed in any part. The point of this sentence is that the method is not a means of reaching the truth because the method is unable to explicitly the truth itself. So that the problem. To interpret the phrase despicable act does not lie in the truth alone but in its description of the implications of the fact that the truths that are claimed to be the definition of despicable acts must be a universal part. In this case what is meant by universal is the human ability to understand something. Human ability in this case is defined as the ability to understand text where text is a fundamental characteristic. So that when someone tries to interpret feels disgraceful then it returns to his life experience. Here Gadamer defines that the goal of hermeneutics is not a matter of method, not making rules of understanding objectively but rather understanding as comprehensive as possible. The need for ontology to make understanding of the phrase deplorable actions better. The phrase despicable act should be interpreted as a humanism where feeling that despicable act is not a bad thing. But it is the human nature of someone who can be judged differently.¹⁰

⁷ M. Subhan, 'Perlindungan Hukum Bagi Penganut Ideologi Komunisme/Marxisme-Leninisme Di Indonesia', *Mimbar Keadilan*, 12.2 (2019), 138 <<https://doi.org/10.30996/mk.v12i2.2385>>.

⁸ Arthur D. Hellman, 'Impeaching a Federal Judge: Some Lessons from History', *SSRN Electronic Journal*, 2014 <<https://doi.org/10.2139/ssrn.2500786>>.

⁹ Enju Juanda, 'Eksistensi Dan Problematika Profesi Notaris', *Ilmiah Galuh Justisi*, 3.2 (2015), 177-87.

¹⁰ Simon Stern, 'The Law', in *Samuel Richardson in Context*, 2017 <<https://doi.org/10.1017/9781316576755.028>>.

Hans-Georg Gadamer says that language doesn't work this way, something that becomes clear when we think about the process of learning a new language as adults. When we start to study it, language is an object for us. We study their structure and rules, memorize vocabulary lists, and learn how to use everyday phrases correctly. Ignorance will appear the initial word of "despicable act" can not force someone to understand the text but there is an addition so that the phrase "disgraceful act" contains a broader definition or reduced factually. Often times we are not aware of the words and concepts we use, or whether it usually makes sense to describe our reach to them in terms of conscious choice.

Language denotes what Hans-Georg Gadamer calls "selfless" characters. Interpreting the phrase "disgraceful act" must be interpreted according to the needs of the text, meaning that it must not deviate from the meaning of the President and/or the Vice President.¹¹

In interpreting, Hans-Georg Gadamer said there should be no free interpretation but still relying on the meaning of the hermeneutic circle.¹² The existence of an attitude of thinking about language as a tool leads to a subject-centered picture of the relationship between thinking, reality, and language. Speaking is understood primarily in terms of translating one's thoughts into words, so what matters is the intended meaning that exists. Speaking reveals the truth not only expresses pre-existing thoughts into words, but also participates in the language that precedes us and therefore allows thinking and limits it at the same time. Far from being a mere tool of subjectivity, language is deeply bound by the notion "that it is an abstraction to understand the system of truth as a system which has been given beforehand the possibility of existence for which the signifying subject chooses the appropriate sign".¹³

Starting from the example of President Bill Clinton that in testimony before the House of Representatives, the Judiciary Committee on 9 November 1998, Cass Sunstein argued that 'Bill Clinton's statement is a false statement under oath is an appropriate basis for impeachment if and only if the false statement involves self-righteous behavior. Serious questions arise about abuse of office. A President cannot be properly impeached for perjury in connection with a traffic accident in which he was involved or for perjury to help a friend in his negligence because the actions of the President to induce perjury in this case will not involve the abuse of his office power.

Another example of two of the three articles of impeachment Nixon recommended by the House Judiciary Committee to the full DPR were mainly subject to barriers to justice in various forms, such as in the Bill Clinton case, but in the Nixon case the case of action being covered up was more political than personal. This is not a difference that can easily be elevated to a general principle. Sunstein himself made an exception for the case where the President killed someone even though for personal purposes and in private ways. He was not suggesting - it is absurd to suggest - that the exception to personal guilt warranting impeachment could be limited to murder, which no other crime could qualify. And what is offered as an impeachment standard is dissolved at inspection. If Bill Clinton's actions were traced prior to becoming president regarding the Whitewater fraud then they should not be included because interpretation would be free. In this regard, Paula Jones accused Bill Clinton of such harassment - using the state police (known as codefendant) as a cause of influence. Bill Clinton could even be accused of abusing his position as President by using his secretary, Betty Currie, a government employee, to help him hide his relationship with Monica Lewinsky from his staff and the Presidential Security Force.¹⁴

¹¹ Tomy Michael, 'ESENSI ETIKA DALAM NORMA PEMBERHENTIAN PRESIDEN DAN/ATAU WAKIL PRESIDEN', *DiH: Jurnal Ilmu Hukum*, 2015 <<https://doi.org/10.30996/dih.v11i22.2233>>.

¹² Jean Grondin, 'Gadamer's Basic Understanding of Understanding', in *The Cambridge Companion to Gadamer*, 2007 <<https://doi.org/10.1017/cco10521801931.003>>.

¹³ Darren Walhof, *The Democratic Theory of Hans-Georg Gadamer, The Democratic Theory of Hans-Georg Gadamer*, 2016 <<https://doi.org/10.1007/978-3-319-46864-8>>.

¹⁴ Milton Cantor and Richard A. Posner, 'An Affair of State: The Investigation, Impeachment, and Trial of President Clinton', *The American Journal of Legal History*, 2000 <<https://doi.org/10.2307/3113836>>.

Conclusion

The reconception of the phrase "disgraceful act" is sourced from Article 10 paragraph (3) letter d of Law of the Republic of Indonesia Number 24 of 2003 concerning the Constitutional Court (actions that can degrading the President and/or Vice President) and Article 5 letter i of the Republic Act Indonesia Number 42 of 2008 concerning the General Election of President and Vice President (Never having committed acts that are contrary to religious norms, moral norms and customary norms, such as gambling, drunkenness, addicts and adultery). With these two laws and regulations the reconception that a disgraceful act is an act committed by the President and/or the Vice President must be based on Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia that the State of Indonesia is a constitutional state. Disgraceful behavior is an act that is against sexual deviation. In the end, the phrase "despicable act" violates the human rights of the President and/or the Vice President.

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