

INDONESIA LRWD Law Reform Weekly Digest

Edisi VI/Feb/2013



PSHK

Indonesia LRWD is published by Indonesian Centre for Law and Policy Studies (www.pshk.or.id). This weekly newsletter provides info, updates, and analysis on law reform in Indonesia. To subscribe, please contact lrwd@pshk.r.id.

Supreme Court

SUPREME COURT REFUSE TO LET GO DAMING SUNUSI

Daming Sunusi statement during fit and proper test session for Supreme Court justice at the parliament few weeks ago on his position for death penalty on a rape case receive serious implication from the Judicial Commission. According to the Commission, Daming Sunusi statement as a judge is classified as serious violation. The Commission recommended Daming Sunusi to be dismissed from his position as high judge with pension rights.

Stated on Law no. 18 in 2011 on Judicial Commission that recommendation of serious violations submitted by the Judicial Commission or Supreme Court should proceed with Majelis Kehormatan Hakim (Justice Honorary Council). But, the idea to form the chamber was rejected by the Supreme Court, since the statement was unintentional from Daming's side and his track record as a judge is considered too lengthy to be dismissed.

The assumed position taken by the Supreme Court by refusing Judicial Commission initiative to form the Justice Honorary Council are seen as display of defense mechanism by Supreme Court on this case; which was unnecessary. Daming Sunusi could still able to make a case for himself whether he violates the code of ethics or not. We strongly suggest Supreme Court to push the Justice Honorary Council accordingly on Daming Sunusi case as the best way to resolve the case. (FN)



Court

ON JUSTICE COLLABORATOR

Justice collaborator concept become a public discussion after the notion of a corruption case on procurement and installation projects of solar power plants (SPP) in the rural area; involving Kosasih Abbas-Head of Sub Directorate of New and Renewable Energy. During the trial, he pleaded guilty and discloses relevant facts; resulting 39 companies who benefitted from the corruption should return the money to the state.

Basically, the concept of Justice Collaborators refers to Article 37 of the United Nations Convention Against Corruption (UNCAC) 2003. Indonesia has ratified it with Law No. 7 of 2006 on Ratification of the United Nations Convention Against Corruption, 2003 (United Nations Convention Against Corruption). Other rules relating to Justice collaborator are also regulated in Law No. 13 of 2006 on the Protection of Witnesses and Victims, Government Regulation No. 32 Year 1999 and No. 99 in 2012, and Chief Justice's Circular Letter No. 4 Year 2011 on Treatment For Whistle Blower and Justice Collaborator who cooperate in Specific Crime. Another one regulation is the Joint Regulation between Ministry of Law and Human Rights, the Attorney General, Chairman of the Corruption Eradication Commission and the Chairman of the Agency on December 14, 2011.

The concept of Justice Collaborators is to open all possibilities; especially in certain cases, to reduce the sentence of an offender who provide substantial cooperation in the investigation or prosecution of a crime. It is quite a standard procedure for prosecutor to bargain with the defendant if he or she has more cards to trade especially in a complex case involving lots of suspects. But the practice in Indonesia; the concept of justice collaborators were used as tools to extort the suspect/defendant himself behind closed doors. It is expected by stating a person as justice collaborator publicly; such negative practices could be stop at the start. (SMR)

“The concept of justice collaborators were used as tools to extort the suspect/defendant himself behind closed doors.”



Photos: www.hukumonline.com

Human Rights

GREAT BARRIER IN COMPLETION HUMAN RIGHTS VIOLATION CASES

Expectations are high from the public after the election of 13 candidates for the office of National Commission of Human Rights. Rising conflict led to a standoff among commissioners. The most disturbing fact of conflict was the subject weren't about important human rights case they should pursue; but more about commission's Chairman position; whether every member should have their chance for each one a year. Rumor has it that the 9 commissioners who supported this idea had their eye for the facilities received by the chairman. Because of the standoff situation, the Commission secretariat has been inactive for several weeks.

Internal conflict within the Commission should not become factor that halt completion of human rights cases while the biggest challenge actually is political one where human rights violators are immune from legal accusations. It should be considered as rational for all commissioners to hold their vested interest and to resolve their problems by themselves or else the public would turn their back on them. A state institution whom fights for a human right with so much at stake like National Human Rights Commission without public support will wind up with nothing. (MSG)

Anti Corruption

LEAK ON ANAS URBANINGRUM INVESTIGATION PAPERS THREATEN KPK'S CREDIBILITY

The leak of Anas Urbaningrum Investigation Decree raises question about KPK's credibility in maintaining professionalism in enforcing the law. The supposedly Anas Urbaningrum investigation decree draft is containing information on Anas status from Person of Interest into Suspect. The changing of Anas legal status to become suspect has political consequences within the Democrat Parties. The suspect status can be used by his political opponents within the Party, including the Head of High Council Party Susilo Bambang Yudhoyono, as a pretext to impeach Anas as chairman in the parties.

The leak was considered by some as politically motivated after the speech made by President regarding the parties declining electability. The timeframe from the President speech and the decree leak create

speculation on KPK's role in catering the President political interest. In response to the leak, KPK has made swift move to investigate the leak and considering the use of ethical panel as well as penal sanction to pursue the culprit. The culprit can be indicted by using Article 322 of the penal code on confidentiality and breach of ethical conduct of KPK. The process will be handled separately. The penal code infringement will be handled by the National Police and the ethical conduct will be processed by special panel consist of KPK's Advisors and possible independent party in the composition.

The KPK's move needed to be supported in order to gain KPK's credibility in enforcing the law as well as maintaining the reputation of high standard of confidentiality among KPK's employees as well as Commissioners. (GAT)



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Court

URGENCY OF SHORT TRIAL FOR PUBLIC OFFICIALS

Since the establishment of KPK, a massive numbers of public officials from both local and national parliament, governors, regents and mayor are charged and indicted as corruptors. According to Law No.27/2009 on General Assembly, Parliament, House of Representatives and Local Parliament article 219 (3), one could be reactivated to his/her previous position if the court decided him/her not guilty.

It is important to facilitate a short trial model for state or public officials, including those in provincial area (governor and regent/mayor). High rank public officials who hold office should be treated differently since they could still exercise their power since they legally still have their job. There should be a special treatment to

speed up their cases in court, similar to the process in Constitutional Court; there's no appeal and no court of cassation.

Such practices are actually existed since the time of RIS (United Republic of Indonesia) Constitution and "UUD Sementara", between 1949 to 1959. Forum Privilegiatum is putting certain officials on trial using criminal court procedures in a very specific mechanism, which consist of a single trial level without appeal or court of cassation. However, to reduce potential error; prosecutors and judges assigned for this case are limited to those who vast experience with complex and demanding cases. (RR)