

Constitutional Analysis of the Norms Governing the Conferment of National Hero Titles on Former Presidents

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Abstract

This study examines the constitutionality of the norms for awarding the title of National Hero to former Presidents as stipulated in Law Number 20 of 2009. The awarding of titles is a form of state respect for extraordinary services, but the strategic position of the President in the 1945 Constitution often causes political glorification that has the potential to obscure the objectivity of the assessment. Using normative juridical methods through legislative, conceptual, and case study approaches, this study assesses the adequacy of norms, especially the phrase "exceeds the duties it undertakes" in Article 26 letter c. The results of the study show that these provisions are abstract and do not come with clear operational standards, making it difficult to apply objectively to the former President who has very broad constitutional authority. This ambiguity opens up a space for interpretation bias and politicization in the awarding process. Therefore, this study recommends the improvement of more measurable criteria so that the awarding process is in line with the principles of justice, legal certainty, and the integrity of the state award system.

Keywords: President; National Heroes; Constitutionality

1. Introduction

The issue of constitutionality in awarding the title of National Hero is a strategic problem in the study of constitutional law, especially related to how the state assesses and recognizes a person's extraordinary service to the nation. The problem arises when the position of President, which according to the 1945 Constitution holds a strategic position as the head of state as well as the head of government, has the potential to give birth to the glorification of the former President. This situation raises questions about the extent to which the process of awarding the degree can be carried out objectively and free from political bias or symbolic interests. Therefore, the main challenge is to ensure that the norms governing the requirements for awarding the title of National Hero remain consistent with the principles of constitutionality and do not leave room for abuse of authority in practice.[1]

Various previous studies have discussed the awarding of the title of national hero from historical, political, and administrative perspectives.[2] However, studies that specifically examine the constitutionality aspect of norms are still limited. In fact, Article 26 letter c of Law Number 20 of 2009, especially the phrase "exceeding the duties carried out," does not yet have an objective benchmark that can be tested juridically. A norm that gives authority to public officials should be tested for conformity with the principle of the rule of law to prevent potential deviations of authority. The unclarity of these objective standards has the potential to interfere with the application of the principle of equality before the law and the principle of proportionality in awarding state honorary titles.[3]

This research offers a constitutional analysis approach to test the adequacy of the norm of awarding the title of national hero for former Presidents. By comparing the basic principles of constitutional law, the standards of authority of public officials, and the framework for the formation of national law, this research is expected to make a theoretical and practical contribution in understanding the limits of state authority in granting honorary degrees. In particular, this study aims to assess whether the norms for awarding the title of national hero are adequate in ensuring objectivity and legal certainty when applied to the figure of the former President.

2. Method

This study uses a normative juridical method to answer how the problem of constitutionality in awarding the title of national hero is resolved. The approach used includes the statute approach to examine the norms in the 1945 Constitution of the Republic of Indonesia, Law No. 20 of 2009, and its implementing regulations; conceptual approach to examine the concept of constitutionality, authority of public officials, and the principle of the rule of law; and a case approach directed at the analysis of the case of awarding the title of national hero to the former President, including the determination of the title, the basis for its consideration, and its relevance to the phrase "exceeding the duties he performs" as stipulated in Article 26 letter c.

The legal materials used consist of primary legal materials in the form of laws and regulations and decisions of the Constitutional Court related to the testing of the authority to grant honorary degrees, as well as secondary legal materials such as constitutional law literature, scientific journals, and credible legal analysis.

Data collection is carried out through literature studies, while analysis is carried out in a descriptive-analytical manner by describing norms, comparing them with constitutional principles, assessing the adequacy of objective standards, and evaluating the application of these norms in the case of awarding degrees to former Presidents.

3. Result and Discussion

3.1. Constitutionality of the Norms for the Awarding of the National Hero Title

Regulations regarding the title of national hero are comprehensively stated in Law Number 20 of 2009 concerning Titles, Marks of Merit, and Marks of Honor. In article 1 paragraph (1) that a title is a state award given by the President to a person who has died or died for extraordinary struggle, devotion, dedication, and work to the nation and state. Meanwhile, national heroes are defined in article 1 paragraph (4), which is a title given to an Indonesian citizen or someone who fought against colonialism in the territory that is now the territory of the Unitary State of the Republic of Indonesia who died or died in order to defend the nation and state, or who during his life performed heroic acts or produced extraordinary achievements and works for the development and progress of the nation and state of the Republic of Indonesia.[4]

An explanation of the requirements for a person to be awarded the title of national hero is contained in articles 24 to 26 which contain general and special requirements. In article 25 regarding general requirements, namely:

- a. Indonesian citizens or someone who is fighting in the area that is now the territory of the Republic of Indonesia;
- b. have moral integrity and exemplary;

- c. meritorious service to the nation and state;
- d. behave well;
- e. loyal and not betraying the nation and state; and
- f. have never been sentenced to prison based on a court decision that has obtained permanent legal force for committing a criminal act that is threatened with a minimum prison sentence of 5 (five) years.

Meanwhile, in Article 26 regarding the special requirements as referred to in Article 24 letter b for the Title given to a person who has died and who during his lifetime:

- a. have led and carried out armed struggle or political struggle or struggle in other fields to achieve, seize, defend, and fulfill independence and realize national unity and unity;
- b. never surrender to the enemy in the struggle;
- c. performing devotion and struggle that lasted most of his life and exceeded the duties he undertook;
- d. have given birth to big ideas or thoughts that can support the development of the nation and state;
- e. have produced great works that are beneficial to the welfare of the wider community or improve the dignity and dignity of the nation;
- f. have a high consistency of spirit and national spirit; and/or
- g. carrying out a struggle that has a wide reach and national impact.

The main problem from a constitutional perspective arises in the phrase in Article 26 letter c, namely the requirement that a person must "perform devotion and struggle that lasts almost his entire life and exceeds the duties he undertakes." This phrase raises the issue of objectivity because it is not accompanied by a firm measure or evaluative indicator. When these conditions are applied to the former President, the problem becomes clearer. The position of President regulated in the 1945 Constitution of the Republic of Indonesia is a constitutional position that contains complex obligations and functions as the head of state as well as the head of government. The complexity of the task inherently blurred the line between "carrying out a constitutional duty" and "going beyond the duties at hand." Thus, it is almost impossible to objectively assess whether a former President has fulfilled the element of "exceeding" his duties, given that the scope of the President's own duties is already very broad and strategic.[5]

This situation has implications for the potential for multiple interpretations in the application of norms, which can ultimately lead to legal uncertainty. From the perspective of constitutionality, the existence of phrases that do not have objective standards is contrary to the principle of *lex certa* and the principle of legal certainty which are fundamental elements of the state of law. These norms also have the potential to cause conflicts with the provisions of the constitution, especially Article 28C and Article 28D of the 1945 Constitution of the Republic of Indonesia. Article 28C paragraphs (1) and (2) guarantee the right of everyone to develop themselves through the fulfillment of basic needs, education, and the use of science and technology, as well as providing the right to advance themselves and fight for rights collectively for the development of society, nation, and state. Meanwhile, Article 28D paragraph (1) emphasizes that everyone has the right to fair legal recognition, guarantee, protection, and certainty as well as equal treatment before the law. [6]

The lack of clarity of standards in the norms for awarding the title of National Hero has the potential to ignore these principles because they do not provide a definite measure, so that

it can cause inequality and legal uncertainty in the assessment process. Therefore, the special requirements for awarding the title of national hero, especially when associated with the former President, require a clearer and measurable evaluation framework so as not to cause subjectivity or politicization in the process of awarding state honorary titles.

3.2. Legal Politics of Awarding the National Hero Title to Former Presidents

The awarding of the title of National Hero to the former President and Vice President shows a fundamental problem in the legal norms, especially the phrase of Article 26 letter c of Law No. 20/2009 which requires that the recipient must "go beyond the duties he or she undertakes." This provision is abstract and does not have clear operational indicators, so its assessment becomes difficult when applied to figures who have held the position of President, a position with broad and complex constitutional authority. This can be seen in the award to Soekarno and Mohammad Hatta on November 7, 2012. Although procedurally in accordance with the rules, the designation is inseparable from the symbolic narrative of the state regarding its role as both the Proclamator and the main figure of the founding of the Republic, thus reflecting more of the strengthening of collective memory than an objective assessment of the normative criterion of "going beyond duty."^[7]

The tension between legal norms and political dynamics is also seen in the awarding to Suharto through the 2025 Presidential Decree by President Prabowo Subianto. Administrative procedures are met, but the assessment of controversial figures, economic stability and development on the one hand, human rights abuses and authoritarian practices on the other, shows that objective standards are difficult to apply consistently. The absence of a normative measure that is able to weigh merits and violations proportionately makes the decision easy to interpret as an instrument of political reconciliation or a rearrangement of historical memory by the regime. Meanwhile, the award to Abdurrahman Wahid (Gus Dur) in the same year presents another complexity. Gus Dur's services in democratization, pluralism, and the defense of human rights are often normative and not easily measured by the normative standards of Law No. 20/2009. This again shows that the assessment of political figures is highly dependent on the institutional interpretation and assessment framework used by the government.^[8]

The legal political framework reinforces these findings. Mahfud MD emphasized that juridically the former President can meet the requirements for heroism, but the socio-political dimension cannot be separated from the process of his determination. Meanwhile, Eid al-Rishan's thinking shows that legal decisions always move in a political space shaped by the interests of power, the legitimacy of the government, and the symbolic agenda of the state. Thus, although legal procedures can be met, the overly abstract character of the norms, the unique position of the President as the holder of supreme power, the dominance of symbolic politics, as well as historical controversies and human rights violations make claims of objectivity difficult to maintain. This analysis confirms that the objectivity of the norm of awarding the title of National Hero is inherently problematic when the recipient is a former President or Vice President, because the assessment process is always at the intersection between formal legality and broader political importance.^[9]

4. Conclusion

This study confirms that the norms for awarding the title of National Hero in Law No. 20 of 2009, especially Article 26 letter c, do not yet have adequate objective standards to assess

the feasibility of the former President. The complexity of the President's duties causes the phrase "beyond his duties" to become non-operational and easily give rise to multiple interpretations. The analysis of the case of Soekarno-Hatta, Suharto, and Abdurrahman Wahid shows that the awarding process is greatly influenced by the dynamics of political law and the construction of historical memory, so that objectivity is difficult to achieve. Thus, a more measurable and transparent criteria are needed to maintain the integrity of the awarding of state honorary degrees.

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