

# CHAPTER I

## INTRODUCTION

### A. Background

The success of the government program and national development depend primarily on the perfection of the state apparatus and in essence depends on civil servants.<sup>1</sup> To achieve the goal of the state, namely to carry out the welfare and happiness of its people, or to organize a just and prosperous society, the utilization of the state apparatus should be continuously improved, especially those related to the quality, efficiency of services and protection of the community as well as the professional ability and welfare of the apparatus should be main priority for supporting the implementation of duties.<sup>2</sup> To achieve full dedication of the civil servants, they need to be well nurtured in accordance with to achieve full dedication of the civil servants, they need to be well nurtured in accordance with Pancasila and the 1945 Constitution.<sup>3</sup>

In the context of Civil Service Law, Civil Servants as an element of the state have a central role in carrying out the government policies and regulations. The role of the Civil Service as termed in the military world "not the gun, the man behind the gun" is not an important weapon but a person who uses that weapon. Modern

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<sup>1</sup> Law Number 43 of 1999 concerning Amendments to Law Number 8 of 1974 concerning the Principles of Employment. article 1 letter a.

<sup>2</sup> Soehino, (2008), *State Science*, Yogyakarta, Liberty, p. 148.

<sup>3</sup> Leden Marpaung, (1999), *Achieving Legal Order in Indonesia*, Jakarta, Sinar Grafika, p. 67.

weapons that have not mean anything if people are believed to use the weapon did not perform his duty properly.<sup>4</sup> This means that the Civil Service is the backbone of the government in implementing service functions and national development.

Article 1 of Law Number 5 of 2014 concerning State Civil Servants (ASN), state civil servants, hereinafter referred to as ASN employees, are civil servants and government employees with a work agreement appointed by a civil service officer and assigned to a government position or entrusted with other state duties and paid according to statutory regulations. Civil Servants, hereinafter abbreviated as PNS, are Indonesian citizens who meet certain conditions, are appointed as ASN Employees on a permanent basis by Civil Service Officers to occupy government positions.<sup>5</sup>

The discipline culture among civil servants has not been fully implemented, even though a new civil servant discipline regulation has been issued, namely Government Regulation No. 53/2010 as a substitute for Government Regulation No. 30 of 1980 regarding the discipline of civil servants. However, in reality there are still many deviant behaviors committed by civil servants against applicable laws and norms in the form of disobedient and disobedient attitudes and behavior towards

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<sup>4</sup> Muchsan, (1982), *Hukum Kepegawaian*, Jakarta, Bina Aksara, p.12.

<sup>5</sup> Article 1 of Law Number 5 of 2014 concerning State Civil Servants (ASN)

existing regulations such as obeying the provisions of working days and working hours.<sup>6</sup>

Dismissal as a Civil Servant is a dismissal which results in the person concerned losing his/her status as a Civil Servant,<sup>7</sup> while Civil Servants are dishonorably discharged due to among other things. During the validity period of the Law Number 5 of 2014 concerning State Civil Servants, this regulation is reaffirmed in Article 87 paragraph (4) letter b, with a slightly different formula.<sup>8</sup>

The position of the Civil Servant is very important and decisive. The success or failure of the mission of the government depends on the state apparatus because civil servants are the state apparatus to organize the government in realizing the ideals of national development. The smooth running of government and the implementation of national development mainly depends on the perfection of civil servants. Dismissal as a Civil Servant is a dismissal which results in the person concerned losing his/her status as a Civil Servant,<sup>9</sup> while Civil Servants are dishonorably discharged due to among other things. During the validity period of

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<sup>6</sup> Lamijan, (2013), *The fading of Civil Servant Discipline*, Accessed on 24 October 2020 at 19:00 p.m. retrieved from: <http://bkd.grobogan.go.id/tugasbkd/93-lunturanya-kedisiplinan-pns.html>.

<sup>7</sup> Sri Hartini, HJ. Sitiajeng Kadarsih, dan Tedi Sudrajat, (2008), *Civil Service Law in Indonesia*, Jakarta, Sinar Grafika, p.154.

<sup>8</sup> Article 87 paragraph (4) letter b states: Civil servants are dishonorably discharged because they are sentenced to imprisonment or imprisonment based on a court decision which has permanent legal force for committing a criminal offense or a criminal offense related to position and/or general crime.

<sup>9</sup> *Op Cit*, P. 156.

Law Number 5 of 2014 concerning State Civil Servants (ASN Law), this regulation is reaffirmed in Article 87 paragraph (4) letter b, with a slightly different formula.<sup>10</sup>

Musi Rawas as a district that has a vision and mission of realizing its Civil Servants to become Qualified, Moral, Professional, dignified and Prosperous Civil Servants, of course many have also encountered disciplinary cases committed by their civil servants. Even though the disciplinary actions have been imposed on the transgression committed by the Civil Servants, there are still several problems with the employee performance and behavior of Musi Rawas Civil Servants, such as absent from their duties, misconduct, corruption, or even they carry out joint activities with superiors, colleagues, subordinates, or other people inside or outside their work environment for the benefit of personal, group, or other parties, which directly or indirectly harm the State.<sup>11</sup>

A range of issues surrounding job performance and behavior of the Indonesian bureaucracy are competency mismatches, misplacement and uncertain profession paths that may be taken.<sup>12</sup> A fact that occurs in everyday life regarding the bureaucracy is that Regional Civil Servants work relaxed, come home early and

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<sup>10</sup> Article 87 paragraph (4) letter b states: Civil servants are dishonorably discharged because they are sentenced to imprisonment or imprisonment based on a court decision which has permanent legal force for committing a criminal offense or a criminal offense related to position and/or general crime.

<sup>11</sup>Website BKPSDM Musi Rawas Regency, (2018), retrieved from: <https://bkpsdm.musirawaskab.go.id/visi-dan-misi-bkpsdm.html>, (Accessed on 2 November 2020 at 11:00 a.m).

<sup>12</sup> Titin Nur Haydah, (2012), "Constraints and Solutions in Increasing Discipline of Regional Civil Servants (Studi di Badan Kepegawaian Daerah Kabupaten Malang)", *Jurnal Hukum Administrasi Negara*, Fakultas Hukum: Universitas Brawijaya, 5(2).

complicate matters and are identical with an adage why should it be made easier if it can be complicated.

Law enforcement in the form of sanctions is also implemented in order to create a deterrent effect for both perpetrators of disciplinary violations and other civil servants from committing the same mistakes. The decision to impose severe disciplinary action against the person concerned has been made in a professional manner. This is the end result of an integrated group working independently, through methods as regulated in Government Regulation Number 53 of 2010 concerning Civil Servant Discipline.<sup>13</sup>

The imposition of sanctions on undisciplined civil servants is evidence that the authorities is an increasing number of assertive and extreme in handling civil servant discipline. This is consistent with authorities' rules in bureaucratic reform that hold to inspire enhancements in the performance of the state apparatus. As kingdom administrators, civil servants need to be capable of become instance for society. Civil servants should be disciplined in order that provider to the general public may be better.

Discipline attitude of employees as servants of the state and society needs to be properly directed and empowered so that the administration of government can run smoothly, effectively and efficiently. By having so, the employees in carrying out their main duties and functions are always obedient and committed to the rules

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<sup>13</sup> PP no 53 of 2010 concerning Disciplinary Civil Servants

and regulations. Thus employees are expected to provide good service and work results. Based on the description above, the enforcement of civil servant discipline must be enforced in order to realize good governance, thus the researcher is interested in finding out the Civil Servant discipline law enforcement and its inhibiting factors.

### **B. Research Problems**

1. How is the disciplinary measures of civil servants in Musi Rawas Regency?
2. What are the factors cause the dishonored discharge of civil servants in Musi Rawas Regency?
3. What are the factors hampering the disciplinary measures of civil servants in Musi Rawas Regency?

### **C. Objective of Research**

The objectives of the research are to understand, analyze and find out how the disciplinary measures of civil servants in Musi Rawas Regency, to determine the factors that cause dishoned discharge of civil servants in Musi Rawas Regency, and to find out the factors that hinder the disciplinary measures of civil servants in Musi Rawas Regency.

### **D. Benefits of Research**

There are two benefits of this research, namely:

## 1. Theoretical Aspects

This research provide the advantage to understand purely related to the discipline law enforcement of civil servant, the factors that cause the dishonored discharge of civil servants, as well as the factors that hinder the disciplinary measures of civil servant in Musi Rawas Regency. The results of these studies are expected to provide benefits for implementation of disciplinary enforcement of civil servants.

## 2. Practical Aspects

This research also gives a comprehensive understanding of the public and civil servants related to how to measures the discipline of civil servants, the factors that cause the dishonored discharge of civil servants, and the factors that hinder the disciplinary measures of civil servants in Musi Rawas Regency. The results of this study are expected to provide practical benefits to civil servants. Research can provide input in efforts to raise the legal awareness of civil servants.