

**THE RIGHT OF EX-CONVICTED TO BE THE CANDIDATE
OF THE HEAD OF REGION**

PUBLICATION PAPER



Name : Mifta Humairah Labudju
Student Number : 20140610504
Faculty : Law
Major : International Program for Law and Sharia
Field of Study : Constitutional Law

FACULTY OF LAW
UNIVERSITAS MUHAMMADIYAH YOGYAKARTA

2018

APPROVAL PAGE

THE RIGHT OF EX-CONVICTED TO BE THE CANDIDATE
OF THE HEAD OF REGION

Written by:

Mifta Humairah Labudju

NIM. 20140610504

Advisor 1

Advisor 2



Iwan Satriawan, Ph.D.

NIP. 19700706199904 153 039



Nanik Prasetyoningsih, S.H., M.H.

NIK. 19740415200004 153 043

Endorsed by,

Dean of Faculty of Law

Universitas Muhammadiyah Yogyakarta



Dr. Trisno Raharjo, S.H., M.Hum.

NIK. 19710409199702 153 028

THE RIGHT OF EX-CONVICTED TO BE THE CANDIDATE OF THE HEAD OF REGION

By Mifta Humairah Labudju

International Program for Law and Shariah, Faculty of Law, Universitas
Muhammadiyah Yogyakarta, Brawijaya Street, Tamantirto, Kasihan, Bantul,
Yogyakarta, Indonesia 55183

Email: mitta.humairah02@gmail.com

ABSTRACT

The Constitutional Court Decision No. 42/PUU/XIII/2015 granted the judicial review of the provision of article 7 letter (g) of Law No. 8 of 2015 on the Regional Head Election. This decision gives chance to the ex-convicted to register themselves as the candidates of regional head election. This study aims to analyze whether the ex-convicted is allowed to be the candidate of regional head election through discussing some ex-convicted cases. This research is a normative legal research using statute and case approach, with juridical qualitative approach. The data were collected through library research by reading and analyzing the books, scientific journals, legal document, and non-documents related to the issue. The result of research shows that the ex-convicted has the right to be candidate in the regional election based on Article 28D Paragraph (3) of the 1945 Constitution and Article 43 Paragraph (1) of Law No. 39 of 1999 on Human Rights and also based on the Constitutional Court Decision No. 42/PUU/XIII/2015. These laws allows the ex-convicted to be candidate in the regional election. However, the Constitutional Court Decision No. 42/PUU/XIII/2015 give a requirement. The requirement is the ex-convicted has to announce openly and honestly that he/she have ever been in the prison. This research proposes some recommendations i.e. The General Election Commission has a responsibility to finalize the general election by creating technical regulation which regulates the detail procedure of candidate registration in line with the Constitutional Court Decision.

Keyword: *Regional Head Election, Constitutional Court, Ex-Convicted*

1. INTRODUCTION

The Constitutional Court Decision No. 42/PUU-XII/2015 granted the judicial review of the provision of article 7 letter (g) of Law No. 8 of 2015 on the Regional Head Election. This decision gives chance to the ex-convicted to register themselves as the regional head candidates. However, the Constitutional Court also provides special requirement that they have to announce openly and honestly that they have ever been in the prison.¹ This decision also shows that there is remaining limitation for ex-convicted to register themselves as the regional head candidate.

In a democratic system of government, a leader will be directly elected by the people. It means that the people have the freedom to choose who will be the leader.² As happened in Indonesia, regional election is the biggest democratic event to determine their political choice and also brings a number of political parties filed its cadres.³ In the several some ex-convicted were nominated as the candidate of regional election.

After the Constitutional Court accepted the petition for the judicial review of Article 7 letter g of Law No. 8 of 2015 in conjunction with Law No. 1 of 2015 on the Stipulation of Government Regulation in Lieu of Law No. 1 of 2014 on the Election of Governor, Regent, and Mayor, which prohibit the ex-convicted to be the candidate as the head of region no longer exist.⁴ In this decision, the Constitutional Court declared, article 7 letter (g) stated that: “has never been imprisoned by a court ruling that has obtained a permanent legal force for committing a criminal offense punishable with imprisonment of 5

¹ Yusti Agustin, “MK: Mantan Terpidana Dapat Mengikuti Pilkada dengan Syarat Tertentu”, taken from <http://www.mahkamahkonstitusi.go.id/index.php?page=web.Berita&id=11443#.WhOqcUqnHIX>, accessed on October 25th, 2017, at 11.30 a.m.

² Ahmad Zazili, “Pengakuan Negara terhadap Hak-hak Politik (*Right to Vote*) Masyarakat Adat dalam pelaksanaan Pemilihan Umum”, *Jurnal Hukum*, Vol. 9 No. 1, March 2012, p. 136.

³ Jimly Asshiddiqie, 2015, *Hukum Tata Negara & Pilar-pilar Demokrasi*, Jakarta, Sinar Grafik, p. 216.

⁴ Nurul adriyana, “MK Izinkan Mantan Napi Maju Pilkada”, Koran Sindo, July 10th, 2015, taken from <https://nasional.sindonews.com/read/1022241/149/mk-izinkan-mantan-napi-maju-pilkada-1436491828>, accessed on October 25th, 2017, at 10.40 a.m.

(five) years or more.”⁵ This contradicts to the 1945 Constitution. According to a judge of the Constitutional Court in the Article 7 letter (g) of Law No. 8 of 2015 on the Election of the Regional Head is a form of reduction of rights to a person.⁶ Human rights can be interpreted as a right that belongs to someone, because someone is human, and human right are obtained by every human being as a grace from God Almighty.⁷

One of the political rights is right to vote and right to be elected, in the general election is reflected in the form of public participation to vote in the election and candidates for public officials in the general election and the regional head election (local election).⁸ The political rights of citizens is one of the important instruments in the general election and regional election.⁹ To ensure that every political rights of citizens which is facilitated to participate in vote and elected to represent within the government, the rights are not only national but international protected which are regulated in Universal Declaration of Human Right and also in International Covenant on Civil and Political Rights.¹⁰

Regarding the political rights of ex-convict, some laws and regulations contain some limitations. One of the limit is in the position of regional head as regulated in Law No.8 of 2015 in conjunction to Law No. 1 of 2015 on Stipulation of Government Regulation In lieu of Law No. 1 of 2014 on Regional Government. In this Act, the limitation is shown to those who have been convicted or a criminal offense whose sentence is more than

⁵ Article 7 letter (g) “Indonesian citizens who may be a candidate for Governor, Regent, and Mayor is eligible among others; (g). Has never been imprisoned by a court ruling that has obtained a permanent legal force for committing a criminal offense punishable with imprisonment of 5 (five) years or more”.

⁶ Suara KPU “*Menjaga Hak Rakyat Bersuara dalam Pemilu*”, Edisi IV, July, 2015, P. 13, taken from <http://www.kpu.go.id/koleksigambar/Revisi+Final+Majalah+Suara+KPU+Edisi+4.compressed.pdf>, downloaded on October 27th, 2017, at 6.30 p.m.

⁷ Jimly Asshiddiqie, 2014, *Konstitusi & Konstitusionalisme Indonesia*, Jakarta: Sinar Grafik, p. 131

⁸ Zainal Arifin Hoesein dan Arifudin, 2017, *Penetapan Pemilihan dalam Sistem Pemilihan Umum*, Depok, PT RajaGrafindo Persada, p. 80.

⁹ Bagir Manan, 1996, *Kedaulatan Rakyat, Hak Asasi Manusia dan Negara Hukum*, Jakarta, Gaya Media Pratama, p. 62.

¹⁰ Murhardi Hasan dan Ekastika Sari, “ Hak Sipil dan Politik”, *Jurnal Demokrasi*, Vo. 4, No. 1, 2015, p. 97.

5 (five) years imprisonment. It was regulated in article 7 letter (g) of Law No. 8 of 2015 on regional head election, and this article has been examined in the Constitutional Court. Based on the explanation above, the author is interested to write about the right of ex-convicted to be the candidate of the head of region.

2. RESEARCH METHOD

2.1. Type of Research

The research was conducted under normative legal research. Normative legal research is the legal research based on library study. It means that the research aims to know how the regulation about human rights and the Constitutional Court Decision to protect the rights of ex-convicted. For example, regarding to the cases in North Sulawesi Province, Manado and South Bengkulu. Furthermore, the researcher used statute approach to elaborate specific statutes such as the 1945 Constitution and Constitutional Court Decision No. 42/PUU-XII/2015. The conceptual approach used in this research to understand the concepts about the rights of ex-convicted to be the regional head candidate.¹¹

2.2. Type of Data

The data used in this research is secondary data. Secondary data consist of primary legal materials, secondary legal materials and tertiary legal material.¹²

¹¹ Johnny Ibrahim dan Joenadi Efendi, 2016, *Metode Penelitian Hukum Normati dan Empiris*, Jakarta, Kencana, pp. 131-132.

¹² Mukti Fajar, Yulianto Achmad, 2015, *Dualisme penelitian Hukum Normatif & Empiris*, Yogyakarta, Pustaka Pelajar, pp. 157-158.

2.3. Method of Collecting Data

The method of data collection in this research is through library research by literature learning. These legal materials can be obtained from reading, looking, listening, or through internet media.¹³

2.4. Data Analysis

The data were analyzed systematically through juridical qualitative research. Systematically means the data were analyzed based on constitutional law perspective. Meanwhile, juridical qualitative means the data were connected to the principle of law, court decision, and other related regulations.¹⁴

3. DISCUSSION

A. The Right of ex-Convicted to Become the Regional Heads Candidate according to Constitutional Court Decision.

1. The Right of Ex-Convicted in the Regional Head Election.

The right to occupy the position of every citizen is protected by law, as well as in the position of the head of the region. The terms of the requirements as the regional head candidate regulated in Law No. 8 of 2015 on Regional Head Election. The requirements of regional head candidate is regulated in Article 7 letter g.¹⁵

The limitation of the rights of ex-convicted to be the regional head regulate in Article 7 point g. from the text of Article 7 point g above, it can be described that the elements, namely:

¹³ Ibid, p.160.

¹⁴ Ibid, p. 123.

¹⁵ Ratna Herawati dan Retno Saraswati, "Kajian Normatif terhadap Calon Kepala Daerah Dikota Pekalongan", *Diponegoro law journal*, Vol. 6, No. 2, March 2017, p. 8.

1. Never been sentenced to imprisonment based on a court decision that has permanent legal force.
2. For Committing a criminal offense which is punishable with imprisonment of 5 (five) years or more.

The explanation of the two elements is that they cause an ex-convicted to become forbidden to run for the regional head election. From the clarification of the terms of prohibition of the political right from ex-convicted, then the possible limitations which appear can be explained by the table, as follows:

Table 1. the Limitation of the Rights of Ex-Convicted on the Position of Regional Head

Threat of Prison / Verdict	< 5 Years	= 5 Years	> 5 Years
< 5 Years	ALLOWED		
= 5 Years	FORBIDDEN	FORBIDDEN	
> 5 Years	FORBIDDEN	FORBIDDEN	FORBIDDEN

Source: processed by the author

This table is a table which contains the scope of the limitation of ex-convicted to run for the regional head election. As for the explanation of the table of contents, as follows:

1. The ex-convicted who received threat of the imprisonment for less than 5 (five) years and a verdict of prison less than 5 (five) years are allowed to be the regional head candidate.
2. The ex-convicted who received threat of the imprisonment for 5 (five) years and a verdict of prison less than 5 (five) years are forbidden to be the regional head candidate.

3. The ex-convicted who received threat of the imprisonment for more than 5 (five) years and a verdict of prison 5 (five) years, they are also forbidden to be the regional head candidate.
4. The ex-convicted who received threat of the imprisonment for more than 5 (five) years and a verdict of prison less than 5 (five) years remain forbidden to be the regional head candidate.

Thus, there are 3 (three) possible prohibitions for ex-convicted to registers themselves as the regional head candidate. From that explanation between the verdict and the threat. It is clear that the provision of Article 7 point g is more of a threat punishment compared to the verdict. This can be seen even though the verdict is less than 5 (five) years, but as long as it is crime threatens the person 5 (five) years or more, then the ex-convicted is still prohibited to be the regional head candidate.

So there are still the limitation on the rights of a person (ex-convicted) to be the regional head candidate. For this reason the provisions of Article 7 point g has been reviewed by the Constitutional Court. Because, the guarantee of human rights has been regulated in the 1945 Constitution, it is actually stated in the Article 28D Paragraph (3) that, "Every citizen has the right to the equal opportunity in government."¹⁶

Human rights which is related to the right of ex-convicted namely political rights, where is the rights to participate in the government, such as right to vote, right to be elected, the right to establish political parties,

¹⁶ Masyhur Effendi, 1994, *Hak Asasi Manusia dalam Hukum Nasional dan Internasional*, Jakarta, Ghalia Indonesia, p. 49.

etc.¹⁷ Regarding the ex-convicted who run for the regional head or legislative candidates, it is the political right of the ex-convicted to be elected in the General Election and Regional Head Election, as well as the right to equality before the law and the government.¹⁸ The participation of the ex-convicted which is the basic of human rights, because human beings have the same rights and obligations, and also guaranteed in the 1945 Constitution, Universal Declaration of Human Rights, and the Law No. 39 of 1999 on the Human Rights.¹⁹

Every citizen in Indonesian have the right to be elected and to vote in general election or in the regional head election, through the voting which is direct, public, free, confidentially, honest and fair.²⁰

Therefore, democratic election can be done directly or indirectly. By the implementation of direct election is expected money politics can be minimized, assuming money politics will be more difficult because voters are all citizens who have the right to vote.²¹but, every rights still has some limitations in the implementation of human rights. These rights include in the civil rights and political. Furthermore, the civil rights and political have the some categories consisting of: firstly, the rights which recognized as the rights that can-not be reduced (non-derogable rights) and the second is the rights that can be reduced (derogable rights).²²

The reduction of the rights above can only be conducted if comparable with the threats which arise and not discriminatory. The

¹⁷ Bambang Heri Supriyanto, "Penegakan Hukum Mengenai Hak Asasi Manusia (HAM) Menurut Hukum Positif Diindonesia", *Jurnal Al-azhar Indonesia Seri Pranata Sosial*, Vol. 2, No. 3, March 2014, p. 157.

¹⁸ Abdul Ghoftar, "Kejujuran dalam Bingkai Hak Memilih-Dipilih (Pelajaran dari Pemilukada Bengkulu Selatan)", *jurnal Konstitusi*, Vol. 8, No. 1, February 2011, p. 81.

¹⁹ Nurul Qamar, 2013, *Hak Asasi Manusia dalam Negara Hukum Demokrasi*, Jakarta, Sinar Grafik, p. 57.

²⁰ Article 43 Paragraph (1) of Law No. 39 of 1999 on Human Rights.

²¹ Nanik Prasetyoningsih dan Nurikah, "Kemandirian dan Pertanggungjawaban KPUD dalam Penyelenggaraan Pilkada Secara Langsung oleh Rakyat", *Jurnal Media Hukum*, Vol. 14, No. 2, December 2007, p. 157.

²² Ifdal Kasim, 2001, *Hak Sipil dan Hak Politik*, Jakarta, eLSAM. p. xii

limitation of rights shall not more than what has been regulated in International Covenant on Civil and Political Rights. In addition, the State which conducted the reduction of rights are required to state the reasons why the limitation was conducted.²³

The limitation of criminal law is applied to a person when the person has been appointed as a suspect, then the defendant and the convicted until finished through a criminal punishment that has been decided by the Judge.²⁴ If the convicted already finished in carrying out the criminal punishment given to the convicted, then the convicted becomes the ordinary person or legal subject whose rights and obligations must be returned with the correctional system which regulated in the Law of Correctional.²⁵

Recovery of a right and freedom of the person who already carrying out the punishment becomes the goals of correctional system based on Law No. 12 of 1995 on Correctional. The recovery of the right and freedom is aimed for the person who already finished their punishment, in that he/she can be active again in the development of a government.²⁶ Someone who has ever been imprisoned in a correctional institution (prison) already carrying out the development program regulated in a correctional institution (prison) can return to be a good citizen.²⁷ Criminalization in Indonesian is already regulated in the Criminal Code, where the criminalization consists of 2 (two) types, namely: the principal penalty and, the additional penalty. One of the additional penalty is the revocation of certain rights.²⁸

²³ Trisno Raharjo, "Upaya Membangun Demokrasi melalui Penyelesaian Pelanggaran Hak Asasi Manusia", *Jurnal Media Hukum*, Vol. 8, No. 18, October 2001, p. 47.

²⁴ Andi Hamzah, 2012, *Asas-asas Hukum Pidana di Indonesia & Perkembangannya*, Jakarta, Sofmedia, p. 286.

²⁵ *Ibid.* p. 250.

²⁶ Rakei Yunardhani, "Lembaga Pemasarakatan di Indonesia", *Jurnal Sisiologi*, Vol. 15 No. 2, April 2014, p. 144.

²⁷ *Ibid.* p. 146-147.

²⁸ Agung Pambudi dan Budhi Wisaksono, "Pengaruh Sistem Pembinaan di Lembaga Pemasarakatan sebagai Bentuk Pertanggungjawaban Pidana dengan Peningkatan Jumlah Narapidana", *Diponegoro Law Journal*, Vol. 5, No. 3, March 2016, p.2.

2. Constitutional Court Decision No. 42/PUU-XIII/2015

This case is a case of judicial review of Law No. 8 of 2015 on Regional Head Election against the 1945 Constitution in the Constitutional Court.

The first Petitioner is Jumanto and the second Petitioner is Fathor Rashid, as for the legislation examined is the Law No. 8 of 2015 on Regional Head Election, while the norms of the article in the law which is examined by the petitioners in this decision are Article 7 point g which stated that: “has never been imprisoned by a court ruling that has obtained a permanent legal force for committing a criminal offense punishable with imprisonment of 5 (five) years or more”.²⁹

The petitioners come to the Constitutional Court for examining this Article; because the provisions of the norm have the potential harm to the constitutional rights of citizens. The petitioners stated that the provision of the article harms the constitutional rights, and it has been strengthened with the reason of petitioners as the citizens of Indonesia which are proven by the petitioner’s identity.³⁰

Jumanto and Fathor Rasyid are petitioners who are Indonesian citizens who have been sentenced to imprisonment for committing a criminal offense punishable by imprisonment of more than 5 (five) years. The verdict has been permanently enforced by Supreme Court Decision Number 1164 K / Pid.Sus / 2010 and Supreme Court Decision Number 2190 K / Pid.Sus / 2010. In the decision there is no additional penalty which prohibit the 2 (two) petitioners to be active in political activities, to be elected and to vote in a regional head election; the petitioners also has been active in the social activity. Then, Jumanto wants to register himself to be the Regent in Probolinggo Regency and Fathor Rasyid wants to register to be the Regent in Situbondo Regency.

²⁹ See the Constitutional Decision No. 42/PUU-XIII/2015.

³⁰ Ibid, p. 3-4.

For this reason, the petitioners argue that they have no integrity problem because both of the petitioners have been accepted and gained trust in the society. Therefore, the provision of article above has the political rights potential to make the petitioners able to serve and fully participate in the society development, nation and country.

The Constitutional Court give the legal consideration follows:

According to the Constitutional Court, Firstly, the provision of the article is a form of reduction of the rights to compliments, which can be equated with the criminal revoked of certain rights. If the rights to vote as the regional head which is revoked based on Article 7 point g of the Law No.8 of 2015 is conducted by law maker, the right to be elected which is revoked from the convicted based on Article 35 Paragraph (1) point 3 of the Criminal Code³¹ is conducted by a Judge decision. Furthermore, the reduction of the rights to be elected can only be conducted by a Judge's decision as an additional penalty.³²

Secondly, the norm "has never been imprisoned by a court ruling that has obtained a criminal offense punishable with imprisonment of 5 (five) years or more" which is regulated by other Law that still exist should be carried out in accordance with the Constitutional Court Decision No. 4/PUU-VII/2009 dated March 24, 2009, which gives a requirements for someone who will occupy public office through the election, namely:

1. Elected officials
2. Applicable for a limited period only for 5 (five) years since the convicted person finished his sentence.
3. Excluded for the ex-convicted who announces openly and honestly that they ever been occupied by the prison and they are an ex-convicted.

³¹ Article 35 paragraph (1) 3 "which may be revoked by a judges verdict in the terms: The right to vote and the right may be elected in elections which is conducted based on general law".

³² Ibid, p. 62-63.

4. Not as continually criminal offender.³³

The problem to be answered is how the provisions of Article 7 point g of the Law No. 8 of 2015 is examined by the petitioner?, So, according to the Constitutional Court Decision, Law No. 8 of 2015 is actually already accommodated with the Constitutional Court Decision No. 4/PUU-VII/2009.

However, it is not regulated in Article 7 point g, but is regulated in the explanation of Article 7 point g of the Law No. 8 of 2015 on Regional Head Election. So, between Article 7 point g and the explanations of Article 7 point g there is a difference. In the norm of Article 7 point g the ex-convicted is prohibited to become the regional head candidate; however, the explanation of Article 7 point g it allowed the ex-convicted to become the regional head candidate. Meanwhile, a law should not create a new norm which make a difference from the meaning of the norm contained in that article. Therefore, according to the Constitutional Court, there is a contradiction between Article 7 point g with the explanation of the explanations of Article 7 point g of the Law No. 8 of 2015.

On the petition which is examined by the petitioners Jumanto and Fathor Rashid above, the Constitutional Court gives the following decisions: First, it granted the petitioners petition. Second, it stated that Article 7 point g of the Law No. 8 of 2015 on Regional Head Election is contradicted to the 1945 Constitution conditionally. Third, it stated that Article 7 point g of the Law No. 8 of 2015 on Regional Head Election does not have legal force conditional as long as it is not interpreted as “excluded for the ex-convicted who announces openly and honestly that they have ever been occupied by the prison and they are an ex-convicted”. Fourth, Article 45 Paragraph (2) point k of the

³³ Ibid, p. 71.

Law No. 8 of 2015 on Regional Head Election is contradicted to the 1945 Constitution and also does not have legal force.³⁴

So, the requirements that appear in the Constitutional Court Decision No. 42/PUU-XIII/2015 provide new opportunities for ex-convicted to register themselves as the regional head candidate as long as the ex-convicted must fulfill the requirement. The requirement is the ex-convicted has to announce openly and honestly that he/she have ever been in the prison.

B. Problem of the Ex-Convicted to be the Candidate in the Regional Head Election

1. North Sulawesi Province Case

In 2015 there are several cities held the regional head election with the candidate of ex-convicted. This happened in the North Sulawesi, Manado, and South Bengkulu.

The first in North Sulawesi Province which is Elly Engelbert Lasut is an ex-convicted who wants to register himself to be the Governor in North Sulawesi.³⁵ After a very long procedure on July 27, 2015 Golkar Party finally stipulated Elly Lasut and David Bobihoe as the candidate pair of Governor and vice Governor of North Sulawesi. Furthermore, Elly-David as the candidate pair come to the office of General Election Commission of North Sulawesi (KPU-SULUT) to register as the Governor and vice Governor Candidates in 2015-2020.³⁶

³⁴ Ibid, p. 75.

³⁵ Susanto Amisan, "Maju Pilgub Sulut, Elly Lasut Disandingkan dengan Jefri Rantung", *Tribun Manado*, July 27th 2015, taken from <http://manado.tribunnews.com/2015/07/27/maju-pilgub-sulut-elly-lasut-disandingkan-dengan-jefri-rantung>, accessed on April 17th, 2018, at 10.09 am.

³⁶ Susanto Amisan, "E2L-Bobihoe Daftar Cagub-Cawagub Sulut", *Tribun Manado*, July 28th 2015, taken from <http://manado.tribunnews.com/2015/07/28/e2l-bobihoe-daftar-cagub-cawagub-sulut>, accessed on April 17th, 2018, at 10.15 am.

However, Elly-David struggle to become the number one person in North Sulawesi in the Governor and vice Governor Election failed.³⁷ It was because on August 24, the General Election Commission of North Sulawesi officially announced the meeting result and then published the Decree No. 35 / Kpts / KPU-Prov-023 / PILGUB / 2015 on the determination of qualified and unqualified Governor and vice Governor Candidates.

From the 3 (three) candidate pairs who registered in the General Election Commission of North Sulawesi, one of candidate pairs was declared unqualified, i.e. Elly Lasut- David Bobihoe who are carried from political parties, because Elly is still a parole.³⁸ Declared as unqualified, Elly did a legal effort by filing a lawsuit on the General Election Commission Decree as a regional head election dispute at the General Election Supervisory Board of North Sulawesi (Bawaslu Sulut).

On September 23, there was a mediation session between Elly Lasut and the General Election Commission of North Sulawesi and also with the conclusion agenda. However, the mediation was not successful to reconcile Elly with General Election Commission of North Sulawesi; because both parties are remained in their opinion. So, the General Election Supervisory Board of North Sulawesi (Bawaslu Sulut) decided the end of the case.³⁹

After the appointment, Elly-David as candidate pairs filed a lawsuit on the regional head election in North Sulawesi dispute to the State Administrative High Court (PTTUN) Makassar on September 18, 2015 on a decision issued by the General Election Commission of North

³⁷ Rimawan, "Pilkada Sulut, Elly Lasut Kembali Gagal, Lolos hanya Olly dan Maya", *Tribun Manado*, August 24th 2015, taken from <http://manado.tribunnews.com/2015/08/24/pilkada-sulut-elly-lasut-kembali-gagal-lolos-hanya-olly-dan-maya>, accessed on April 17th, 2018, at 03.10 pm.

³⁸ Agung, "Berstatus Tahanan, Elly Lasut Gagal Maju Pilgub Sulut", *CNN Indonesia*, August 25th 2015, taken from <https://www.cnnindonesia.com/nasional/20150825121500-32-74320/berstatus-tahanan-elly-lasut-gagal-maju-pilgub-sulut>, accessed on April 17th, 2018, at 03.10 pm.

³⁹ Alexander Patturanie, "KPU Sulut dan Elly Lasut Gagal Damai", *Tribun Manado*, Semtember 13th 2015, taken from <http://manado.tribunnews.com/2015/09/13/kpu-sulut-dan-elly-lasut-gagal-damai>, accessed on April 17th, 2018, at 05.20 pm.

Sulawesi No. 35 / Kpts / KPU-Prov-023 / PILGUB / 2015 on the determination of qualified and unqualified Governor and vice Governor Candidates. Then the Court responded this lawsuit by deciding this case with the Decision No. 15 / G / PILKADA / 2015 / PT.TUN.MKS which stated that the plaintiff claim was unacceptable.⁴⁰

2. Manado Case

Besides Elly, there is other candidate who are ex-convicted, Jimmy Rimba Rogi was nominated as Mayor of Manado.⁴¹ Jimmy Rimba Rogi and Bobby Daud as Mayor and vice Mayor of Manado Candidates, each other from the combination of political parties.⁴²

On August 24, 2015, the candidate of Mayor and Vice Mayor of Manado registered and had been registered in Regional Election Commission of Manado from a combination of political parties. The Regional Election Commission of Manado stated that the candidate is qualified as a Mayor and Vice Mayor Candidates 2015-2020 for period. It was through Regional Election Commission of Manado Decree No. 11 / Kpts / KPU-MDO-023 / PILWAKO / 2015.⁴³

on November 8, 2015 through the newspaper, there was a recommendation from the General Election Supervisory Board of North Sulawesi No. 372 / Bawaslu-Sulut / XI / 2015, that essentially the Regional Election Commission must issue a decision which stated that Imba-Bobby is unqualified as a candidate of Mayor and Vice Mayor of

⁴⁰ See the Decision No. 15/G/PILKADA/2015/PT.TUN.MKS

⁴¹ Romi, "Panglima Imba Maju Pilwako Manado", *Manado Post*, July 11th 2015, taken from <http://manadopostonline.com/read/2015/07/11/Panglima-Imba-Maju-Pilwako-Manado/10073>, accessed on April 20th, 2018, at 10.09 pm.

⁴² Alexander Pattryanie, "16 Parpol di Sulut Penuhi Syarat Maju Pilkada 2015", *Tribun Sulut*, February 12th 2015, taken from <http://manado.tribunnews.com/2015/02/12/16-parpol-di-sulut-penuhi-syarat-maju-pilkada-2015>, accessed on April 20th, 2018, at 10.15 pm.

⁴³ Anthonius Iwan, "Inilah Lika-Liku Perjalanan Imba, hingga Keputusan Penentuan Hari ini", *Tribun Manado*, November 25th 2015, taken from <http://manado.tribunnews.com/2015/11/25/inilah-lika-liku-perjalanan-imba-hingga-keputusan-penentuan-hari-ini>, accessed on April 20th, 2018, at 10.48 pm.

Manado in 2015, it is because Jimmy Rimba Rogi was still in a parole status.⁴⁴

On November 19, 2015, the Regional Election Commission of Manado issued again a Decree No. 238 / Kpts / KPU-MDO-023 / PILWAKO / 2015 which states the Imba-Bobby were qualified as a candidate of Mayor and Vice Mayor of Manado. It is because, based on the Supreme Court Decision No. 30 / TUAKA.Pid / X / 2015 dated September 16, 2015, it is stated that a person with parole status is categorized as ex-convicted. This is to be a consideration, so there is virtue of Regional Election Commission of Manado to value its can be accountable.⁴⁵

On November 26, 2015, the Regional Election Commission of Manado issued the Decree No. 239 / Kpts-MDO-023.436282 / 2015 on cancellation of Regional Election Commission Decree No. 238 / Kpts / KPU-MDO-023 / PILWAKO / 2015 which stated Jimmy Rimba Rogi and Bobby Daud is unqualified as a candidate pairs of Mayor and vice Mayor. This decree was taken from the plenary meeting of General Election Commission of North Sulawesi.⁴⁶

After the existence of this stipulation, Imba and Bobby as the candidate pair directly filed a dispute on Regional Election Commission of Manado Decree to the State Administrative High Court Makassar on December 3, 2015. Then the Court responded this case and also decided the case with the Decision No. 21/PEN/PILKADA/2015/PT.TUN.MKS which in the decision stated:

1. Accept the plaintiffs petition

⁴⁴ Debora Bladina Sinambela dan Catherine Nathalia, "Penyelesaian Sengketa Pencalonan Pilkada 2015 yang Berlarut-Larut", *Jurnal Perludem*, Vol. 8, No. 4, April 2016, p. 87.

⁴⁵ Wawan Pratama, "Berikut Penjelasan KPU Manado Loloskan Kembali Imba-Boby", *Manado Post*, November 20th 2015, taken from <http://manadopostonline.com/read/2015/11/20/Berikut-Penjelasan-KPU-Manado-Loloskan-Kembali-Imba-Boby/11231>, accessed on April 21th, 2018, at 5.09 pm.

⁴⁶ Ferdinand Rati, "KPU Pusat Perintahkan Manado Batalkan Pencalonan Jimmy-Bobby", *Tribun news*, November 24th 2015, taken from <http://www.tribunnews.com/regional/2015/11/24/kpu-manado-batalkan-pencalonan-jimmy-bobby>, accessed on April 21th, 2018, at 6.15 pm.

2. Regional Election Commission of Manado is required to re-enact the letter of Regional Election Commission of Manado Decree No. 238/Kpts/KPU-MDO-023/PILWAKO/2015 dated on November 19, 2015, on the determination of Jimmy Rimba Rogi and Bobby Daud as the candidate pairs in the regional head election. Especially Mayor and vice Mayor of Manado.⁴⁷

With the existence of this decision, Jimmy Rimba Rogi and Bobby Daud as the candidate pair has the opportunity to participate in the regional head election in 2015-2020 period. However, on December 18, 2015 the Regional Election Commission of Manado filed a cassation to the Supreme Court, because of objections to the legal consideration in the State Administrative High Court Decision No. 21/PEN/PILKADA/2015/PT.TUN.MKS, and then the Supreme Court responded this case and also decided the case with the Decision No. 679 K/TUN/PILKADA/2015.

3. Supreme Court Decision No. 679 K/TUN/PILKADA/2015.

Decision No. 679 K / TUN / PILKADA / 2015 is a dispute decision of the Regional Election Commission of Manado Decree on the determination that Jimmy Rimba Rogi and Bobby Daud is unqualified as the candidate. Based on the Regional Election Commission of Manado Decree, Jimmy and Bobby then filed this dispute to the State Administrative High Court. After it was decided in State Administrative High Court who granted the lawsuit. Furthermore, the Regional Election Commission of Manado filed a cassation to the Supreme Court.

On December 28, 2015 the Regional Election Commission of Manado filed a cassation to the Supreme Court with the reasons:

⁴⁷ Putusan Nomor 21/PEN/PILKADA/2015/PT.TUN.MKS.

1. Objection to the legal considerations contained in the Decision of the State Administrative High Court of Makassar. 21 / PEN / PILKADA / 2015 / PT.TUN.MKS on December 18, 2015.
2. On the granted of the suspension petition which is in dispute a Panel of Judges of the State Administrative High Court of Makassar has issued the determination of suspension petition. With this decision, the Regional Election Commission of Manado objected the consideration in that the Panel of Judges have given contradictory legal consideration. On the other side, the Judges granted the suspension petition with the reason is the suspension was considered relevant.
3. Subject Matter

Jimmy-Bobby is qualified as a Mayor and vice Mayor candidates in Manado based on the Regional Election Commission of Manado Decree No. 11/Kpts/KPU-MDO-023/PILWAKO/2015 on August 24, 2015.⁴⁸ This decree was issued by the Regional Election Commission of Manado based on the candidate requirements and that Jimmy Rimba Rogi one of the candidate pair does not list the end of guidance. The legal status of Jimmy is known after the Regional Election Commission of Manado received the letter of Ministry of Justice and Human Rights No. W27-PK.01.05-03 regarding the legal status of Jimmy which explains that Jimmy still carries out parole status starting on December 12, 2014 until the end of December 29, 2017.

On November 8, 2015 through the newspaper it was known that the General Election Supervisory Board of North Sulawesi issued recommendation No. 372/Bawaslu-Sulut/XI/2015 with the main point that Regional Election Commission of Manado

⁴⁸ See the Supreme Court Decision No. 679 K/TUN/PILKADA/2015, P. 27.

must issue a decree which stated that Jimmy and Bobby is unqualified as a candidate pair in the regional head election. The legal reason for the General Election Supervisory Board of North Sulawesi stated that Jimmy Rimba Rogi is unqualified as a Mayor candidate in Manado, because General Election Supervisory Board has studied the candidate requirements and found the legal status of Jimmy who is still carry out the parole status.

After Regional Election Commission of Manado get a decision from the Honorary Council of the Organization of the Elections (DKPP) which justified the action of the Regional Election Commission of Manado which stated Jimmy and Bobby qualified again as candidate.⁴⁹

Actually the Regional Election Commission of Manado objected with the legal considerations above, because the legal considerations were not by the fact. This is According to Regional Election Commission of Manado, the decision of DKPP is not true and DKPP never stated in the decision that Jimmy and Bobby is qualified. Furthermore, the DKPP basically does not have authority to decide whether a candidate is qualified or not, because the decision is not related to the candidate status, however, it is more to the ethics of the regional head election organizers.

Before discussing the decision, the Supreme Court gives a consideration first to the case of this dispute. In the consideration, the Supreme Court, it is stated that:

1. State Administrative High Court does not consider carefully about the issue of the object of the dispute.

⁴⁹ Ibid. p. 35-36.

2. General Election Commission as an election organizer which have hierarchy of organization from the center to the region. So, if a lower organization unit can-not maximize their authority, then the authority is transferred by law to a higher unit.
3. The Regional Election Commission of Manado which establishes the Petitioners is qualified as a Mayor and Vice Mayor of Manado candidates is contradict to the provisions of Article 7 point g of Law No.8 of 2015 on the Regional Head Election and the Constitutional Court Decision No. 42/PUU-XIII/2015.

Based on the consideration above, according to the opinion of Supreme Court there are sufficient reason to granted the cassation petition from the Regional Election Commission of Manado.

In this decision, the Supreme Court made two decision follows of:

1. Granted the cassation petition from the Chairman of the Regional Election Commission of Manado.
2. Canceled the State Administrative High Court of Makassar Decision No. 21/G/PILKADA/2015/PT.TUN.MKS on December 18, 2015.⁵⁰

The Supreme Court Decision has strengthen the Regional Election Commission of Manado Decree on the determination that Jimmy Rimba Rogi and Bobby Daud as unqualified candidate, because the person who is still in parole status is categorized as a convict before the guidance period ends, then the person is not yet become ex-convicted that still has the obligation to complete the sentence outside the prison and still under the correctional institution supervision.

On the other had, the Regional Election Commission of Manado has committed negligence in the examination of candidate papers in the

⁵⁰ See Supreme Court Decision No. 679 K/TUN/PILKADA/2015

administrative process of regional head election. In the fact, the regional head candidate is still in a parole status.

In the beginning, to the existence of Article 7 point g of the Law No. 8 of 2015 on Regional Head Election, it prohibits the ex-convicted to register themselves as a regional head election and therefore Jimmy Rimba Rogi and Elly Lasut has no longer opportunity to participate in the regional head candidates.

The Constitutional Court granted the judicial review of the provision of Article 7 Point g of the Law No. 8 of 2015 on Regional Head Election that gives a hope for Jimmy Rimba Rogi and Elly Lasut to have the political right to participate in the regional head election. However, the hope never come to a reality, because Jimmy Rimba Rogi and Elly lasut are still in parole status.

4. South Bengkulu Case

In South Bengkulu, there is a candidate who is ex-convicted registered as regional head candidate in regional election, Dirwan Mahmud registered as a regent in the regional head election 2015. In 2008, Dirwan had also been nominated as Regent candidate in South Bengkulu.

In 2008 Dirwan won the regional head election; however, the victory was aborted by the Constitutional Court on January 7, 2009. The victory of Dirwan was sued by a pair candidate who lost in the election. They claimed that the status of Dirwan as ex-convicted is legal to be the candidate.⁵¹

In the Constitutional Court Decision, it is explained that Dirwan had ever been sentenced for 7 (seven) years imprisonment in the Class 1 Cipinang Penitentiary in East Jakarta from 1985 to 1992; due to a

⁵¹ Yandi Mohammad, "Jejak Bupati Bengkulu Selatan", *Beritagar*, May 16th, 2018, taken from <https://beritagar.id/artikel/berita/jejak-bupati-bengkulu-selatan-dari-pembunuhan-narkoba-hingga-kpk>, accessed on October 25th October, 2018, at 10.40 a.m.

murder case. While in the regional head election in 2008 which is still based on the Law No. 32 of 2004 on Regional Head Election, especially in the Article 58 letter (f) it is stated that the requirement of regional head candidate and the vice regional head candidate should have never been imprisoned by a court decision that has obtained a permanent legal force by committing a criminal offense that threat the imprisonment for 5 (five) years or more.⁵²

With these requirements, Dirwan that had been punished with 7 (seven) years imprisonment should not be able to follow the regional head election in South Bengkulu. So, in the Constitutional Court Decision, it is stated that the victory of Dirwan in the regional head election in 2008 is null and void. The Constitutional Court also give the instruction to General Election Commission of South Bengkulu to hold a re-election without Dirwan-Hartawan.⁵³

In 2011, Dirwan had been caught in an ecstasy possession case. Dirwan was accused with saving and carrying drugs when he wanted to cross Bekauheni port. On December 13, 2011. The Supreme Court gave the decision that Dirwan is guilty and was sentenced to 4 (four) years imprisonment. Dirwan had through a prison period in Class IIA Kalianda Penitentiary and already finished in carrying out the criminal punishment on April 3, 2015.⁵⁴

Dirwan had already finished in carrying out the criminal punishment before regional head election 2015 which was held on December 9, 2015. The Constitutional Court Decision No. 42/PUU-XIII/2015 canceled the article that prohibits the ex-convicted to register themselves in the regional head election. With this decision, Dirwan

⁵² Article 58 Letter (f) of Law No. 32 of 2004 on the Regional Head.

⁵³ See the Constitutional Court Decision No. 57/PHPU.D-VI/2008.

⁵⁴ Firmansyah, "Jebak Bupati Bengkulu dengan Narkoba, Pejabat BNNP jadi tersangka", Kompas, February 17th 2017, taken from <https://regional.kompas.com/read/2017/02/17/21052381/jebak.bupati.bengkulu.dengan.narkoba.pejabat.bnnp.jadi.tersangka>, accessed on October 25th, 2018, at 11.30 a.m.

registered himself in the regional head election, especially as a Regent candidate in South Bengkulu.

Dirwan Mahmud and Gusnan Mulyani are Regent and Vice Regent candidate of South Bengkulu in 2015. After going through the administrative process and carrying out a campaign that has been passed by every Regent and Vice Regent candidate, the General Election Commission announced the vote acquisition of the election results on December 16, 2015, at 3.20 p.m., which stated that Dirwan-Mulyani won the regional head election as a Regent and Vice Regent in South Bengkulu of 2015-2020.

However, on December 19, 2015 at 6.07 p.m., Reskan and Ririn, one of a Regent and vice Regent Candidates of South Bengkulu who lost in this election, filed a lawsuit to the Constitutional Court about the election results and also stated that Dirwan was still in the parole status of the drug cases.⁵⁵

About the parole status of Dirwan, Ririn as petitioner who filed the petition to the Constitutional Court. Ririn argue that the participation of Dirwan Mahmud in the regional head election has hidden himself as a narcotics offender who is still carrying out a punishment, and also Dirwan is dishonest to the public about this.⁵⁶

In the subject matter, Dirwan as related party in this lawsuit filed an objection to what was stated by the petitioner above. The objection includes:

1. That the petitioner did not read and, understand carefully the explanation in the Decree of the Minister of Law and Human Rights of Republic of Indonesia No. PAS-132.PK.01.05.06 of 2013 dated June 5, 2013. Based on this decree, it has already

⁵⁵ See the Constitutional Court No. 59/PHP.BUP-XIV/2016, P. 3.

⁵⁶ Ibid. p. 8.

been explained that Dirwan Mahmud has been on a parole status since August 1, 2013.⁵⁷

2. The Constitutional Court Decision No. 42/PUU-XIII/2015 which stated that “the ex-convicted can nominated themselves in the regional head election, but must fulfill the requirement i.e openly and honestly that they have been in prison”.
3. Based on the description above, Dirwan Mahmud has been in parole status since August 1, 2013 and has finished his sentence on April 3, 2015, so before the regional head election on December 9, 2015. Dirwan had already been the ex-convicted. Meanwhile on July 26 – 28 is the candidate registration.⁵⁸
4. That on July 28, 2015 and August 2, 2015 Dirwan Mahmud has officially announced through the Radar Selatan newspaper that Dirwan is an ex-convicted. So, by announcing through this newspaper, Dirwan has fulfilled the requirement regulated in Constitutional Court Decision.
5. In the trial, Dirwan filed an exception regarding the petition of petitioner in which the submission has passed the time limit which given by the Constitutional Court.

Furthermore, in the decision there is a legal consideration of the Constitutional Court which stated that: That on December 16, 2015, at 3.20, p.m. the respondent (General Election Commission of South Bengkulu) based on Decree No. 57/Kpts/KPU-Kab.BS-007.434305/2015 announced the determination of the recapitulation of the result of vote count for Regent and vice Regent of South Bengkulu 2015.

⁵⁷ Ibid. p. 48.

⁵⁸ Ibid. p. 49-50.

Regarding the time limit which is given by the Constitutional Court, it is 3x4 (three times twenty-four) hours since the respondent announced the result of vote count on December 16, 2015, at 3.20, p.m., up to December 19, 2015 at 3.20 p.m., but in fact, the petitioner submitted the petition to the Constitutional Court on December 19, 2015 at 6.07 p.m. So, based on the legal fact, General Election Commission of South Bengkulu stated that this petition had passed a time limit of 2 (two) hours, that is more than 47 (Forty-seven) minutes from the last deadline.

Based on the legal consideration above, according to the Constitutional Court, the petitioners has passed the time limit which is regulated in Legislation when submitted the petition.⁵⁹ Furthermore, in the Decision it is stated that: First, the exception of related party regarding the time limit for filing the petition was grant. Second, the petition of petitioner could not be accepted.

So, after the petition which was filed by Reskan-Ririn was rejected by the Constitutional Court, Dirwan – Mulyani was officially appointed as Regent and Vice Regent in South Bengkulu 2015-2020 by Governor of South Bengkulu.

4. CONCUSION AND RECOMMENDATION

4.1. Conclusion

Based on the previous discussion, it can be concluded that the ex-convicted has the right to be nominated in the regional election for example in South Bengkulu, the ex-convicted become the regional head as a Regent in South Bengkulu. This is based on Article 28D Paragraph (3) of the 1945 Constitution which stated that “Every citizen has the right

⁵⁹ Ibid. p. 56-58.

to the equal opportunity in government.” Article 43 Paragraph (1) of Law No. 39 of 1999 on Human Rights also states that “Every citizen has the right to be elected and to vote in the general election or in the regional election, through the voting which is direct, public, free, honest and fair. It is also followed by the Constitutional Court Decision No. 42/PUU-XIII/2015 which allows the ex-convicted to be the candidate. However, there is requirement to ex-convicted who want to be the regional head candidate that must be fulfilled the requirement. The requirement is the ex-convicted has to announce openly and honestly that he/she have ever been in the prison.

4.2. Recommendation.

Based on the problem of the ex-convicted from the previous discussion, the author would like to give a suggestion as follow: The General Election Commission has responsibility for finalizing the general election to create technical regulation which regulate the detail procedure of candidate registration which is in line with the decision of the Constitutional Court Decision No. 42/PUU-XIII/2015.

BIBLIOGRAPHY

Books:

- Andi Hamzah, 2012, *Asas-asas Hukum Pidana di Indonesia & Perkembangannya*, Jakarta, Softmedia.
- Askuri, 2007, *Panduan Pendidikan Pemilihan (Mengantarkan Pemilihan Cerdas)*, Yogyakarta, KPU Provinsi DIY.
- Bagir Manan, 1996, *Kedaulatan Rakyat, Hak Asasi Manusia dan Negara Hukum*, Jakarta, Gaya Media Pratama.
- Ifdal Kasim, 2001, *Hak Sipil dan Hak Politik*, Jakarta, eLSAM.
- Janedjri M. Gaffar, 2012, "Politik Hukum Pemilu", Jakarta, *Konstitusi Press (Konpress)*.
- Jimly Asshiddiqie, 2014, *Konstitusi & Konstitusionalisme Indonesia*, Jakarta, Sinar Grafik.
- Jimly Asshiddiqie, 2015, *Hukum Tata Negara & Pilar-pilar Demokrasi*, Jakarta, Sinar Grafik.
- Johnny Ibrahim dan Joenadi Efendi, 2016, *Metode Penelitian Hukum Normatif dan Empiris*, Jakarta, Kencana.
- Jumadi, 2012, *Refleksi Hak Asasi Manusia di Indonesia*, Alauddin Press.
- Masyhur Effendi, 1994, *Hak Asasi Manusia dalam Hukum Nasional dan Internasional*, Jakarta, Ghalia Indonesia.
- Mukti Fajar dan Yulianto Achmad, 2015, *Dualisme penelitian Hukum Normatif & Empiris*, Yogyakarta, Pustaka Pelajar.
- Nurul Qamar, 2013, *Hak Asasi Manusi dalam Negara Hukum Demokrasi*, Jakarta, Sinar Grafik.
- Zainal Arifin Hoesein dan Arifudin, 2017, *Penetapan Pemilihan dalam Sistem Pemilihan Umum*, Depok, PT RajaGrafindo Persada.

Journals:

- Abdul Ghoffar, "Kejujuran dalam Bingkai Hak Memilih-diPilih (Pelajaran dari Pemilukada Bengkulu Selatan), *Jurnal Konstitusi*, Vol. 8, No. 1, February 2011.
- Ahmad Zazili, "Pengakuan Negara terhadap Hak-Hak Politik (Right to Vote) Masyarakat Adat dalam Pelaksanaan Pemilihan Umum", *Jurnal Hukum*, Vol. 9 No. 1, March 2012.
- Agung Pambudi dan Budhi Wisaksono, "Pengaruh Sistem Pembinaan di Lembaga Pemasarakatan sebagai Bentuk Pertanggungjawaban Pidana dengan Peningkatan Jumlah Narapidana", *Diponegoro Law Journal*, Vol. 5, No. 3, March 2016.
- Bambang Heri Supriyanto, "Pengakuan Hukum Mengenai Hak Asasi Manusia (HAM) Menurut Hukum Positif di Indonesia", *Jurnal Al-azhar Indonesia Seri Pranata Sosial*, Vol. 2 No. 3, March 2014.
- Debora Bladina dan Catherine Nathalia, "Penyelesaian Sengketa Pencalonan Pilkada 2015 yang Berlarut-larut", *Jurnal Perludem*, Vo. 8, No. 4, April 2016.
- Faiz Rahma dan Diana Agung Wicaksono, "Eksistensi dan Karakteristik Putusan Bersyarat MK", *Jurnal Konstitusi*, Vol. 13, No. 2, June 2016.
- Murhardi Hasan dan Ekastika Sari, " Hak Sipil dan Politik", *Jurnal Demokrasi*, Vo. 4, No. 1, March 2015.
- Nanik Prasetyoningsih dan Nurikah, "Kemandirian dan Pertanggungjawaban KPUD Dalam Penyelenggaraan Pilkada Secara Langsung Oleh Rakyat", *Jurnal Media Hukum*, Vol. 14, No. 2, December 2007.
- Ratna Herawati dan Retno Saraswati, "Kajian Normatif terhadap Calon Kepala Daerah di Kota Pekalongan", *Diponegoro law Journal*, Vol. 6, No. 2, March 2017.
- Rakei Yunardhani, "Efektifitas Lembaga Pemasarakatan di Indonesia", *Jurnal Sisiologi*, Vol. 15 No. 2, April 2014, p. 144.

Trisno Raharjo, “ Upaya Membangun Demokrasi melalui Penyelesaian Pelanggaran Hak Asasi Manusia”, *Jurnal Media Hukum*, Vol. 8, No. 18, October 2001.

Laws:

The 1945 Constitution

Law No. 39 of 1999 on Human Rights

Law No. 8 of 2015 on the Regional Head Election

Internet:

Agung, “Berstatus Tahanan, Elly Lasut Gagal Maju Pilgub Sulut”, *CNN Indonesia*, August 25th 2015, taken from <https://www.cnnindonesia.com/nasional/20150825121500-3274320/berstatus-tahanan-elly-lasut-gagal-maju-pilgub-sulut>, accessed on April 17th, 2018, at 03.10 pm.

Anthonius Iwan, “Inilah Lika-Liku Perjalanan Imba, hingga Keputusan Penentuan Hari ini”, *Tribun Manado*, November 25th 2015, taken from <http://manado.tribunnews.com/2015/11/25/inilah-lika-liku-perjalanan-imba-hingga-keputusan-penentuan-hari-ini>, accessed on April 20th, 2018, at 10.48 pm.

Alexander Patturanie, “KPU Sulut dan Elly Lasut Gagal Damai”, *Tribun Manado*, Semtember 13th 2015, taken from <http://manado.tribunnews.com/2015/09/13/kpu-sulut-dan-elly-lasut-gagal-damai>, accessed on April 17th, 2018, at 05.20 pm.

Alexander Pattryanie, “16 Parpol di Sulut Penuhi Syarat Maju Pilkada 2015”, *Tribun Sulut*, February 12th 2015, taken from <http://manado.tribunnews.com/2015/02/12/16-parpol-di-sulut-penuhi-syarat-maju-pilkada-2015>, accessed on April 20th, 2018, at 10.15 pm.

Ferdinand Rati, “KPU Pusat Perintahkan Manado Batalkan Pencalonan Jimmy-Bobby”, *Tribun news*, November 24th 2015, taken from <http://www.tribunnews.com/regional/2015/11/24/kpu-manado-batalkan-pencalonan-jimmy-bobby>, accessed on April 21th, 2018, at 6.15 pm.

Firmansyah, “Jebak Bupati Bengkulu dengan Narkoba, Pejabat BNNP jadi tersangka”, *Kompas*, February 17th 2017, taken from <https://regional.kompas.com/read/2017/02/17/21052381/jebak.bupati.bengkulu.dengan.narkoba.pejabat.bnnp.jadi.tersangka>, accessed on October 25th, 2018, at 11.30 a.m.

- Nurul adriyana, "MK Izinkan Mantan Napi Maju Pilkada", *Koran Sindo*, July 10th, 2015, taken from <https://nasional.sindonews.com/read/1022241/149/mk-izinkan-mantan-napi-maju-pilkada-1436491828>, accessed on October 25th, 2017, at 10.40 a.m.
- Rimawan, "Pilkada Sulut, Elly Lasut Kembali Gagal, Lolos hanya Olly dan Maya", *Tribun Manado*, August 24th 2015, taken from <http://manado.tribunnews.com/2015/08/24/pilkada-sulut-elly-lasut-kembali-gagal-lolos-hanya-olly-dan-maya>, accessed on April 17th, 2018, at 03.10 pm.
- Romi, "Panglima Imba Maju Pilwako Manado", *Manado Post*, July 11th 2015, taken from <http://manadopostonline.com/read/2015/07/11/Panglima-Imba-Maju-Pilwako-Manado/10073>, accessed on April 20th, 2018, at 10.09 pm.
- Suara KPU "Menjaga Hak Rakyat Bersuara dalam Pemilu", Edisi IV, July, 2015, taken from <http://www.kpu.go.id/koleksigambar/Revisi+Final+Majalah+Suara+KPU+Edisi+4.compressed.pdf>, downloaded on October 27th, 2017, at 6.30 p.m.
- Wawan Pratama, "Berikut Penjelasan KPU Manado Loloskan Kembali Imba-Boby", *Manado Post*, November 20th 2015, taken from <http://manadopostonline.com/read/2015/11/20/Berikut-Penjelasan-KPU-Manado-Loloskan-Kembali-Imba-Boby/11231>, accessed on April 21th, 2018, at 5.09 pm.
- Yusti Agustin, "MK: Mantan Terpidana dapat Mengikuti Pilkada dengan Syarat Tertentu", taken from <http://www.mahkamahkonstitusi.go.id/index.php?page=web.Berita&id=11443#.WhOqcUqnHIX>, accessed on October 25th, 2017, at 11.30 a.m.