

Rekonstruksi Hak Politik Mantan Narapidana Oleh Mahkamah Konstitusi Dikaitkan Dengan Pemenuhan Prinsip Keadilan Elektoral (Studi Kasus Pencalonan Irman Gusman Pada Pemilu DPD 2024)

Meisya Anggraini Rizki¹ Mahaarum Kusuma Pertiwi²

INTISARI

Penelitian ini bertujuan untuk mengetahui, menganalisis dan memahami implikasi Putusan Mahkamah Konstitusi terhadap rekonstruksi hak politik mantan narapidana serta pemenuhannya terhadap prinsip keadilan elektoral di dalam kasus pencalonan Irman Gusman pada Pemilu DPD 2024.

Penelitian ini merupakan penelitian hukum normatif yang menggunakan bahan hukum primer, sekunder dan tersier melalui studi kepustakaan serta didukung wawancara untuk memperkaya analisis. Pendekatan yang digunakan meliputi pendekatan perundang-undangan (*statute approach*) dan pendekatan kasus (*case approach*). Selanjutnya, bahan hukum dianalisis secara kualitatif dengan metode deskriptif dan evaluatif.

Hasil penelitian menunjukkan bahwa Mahkamah Konstitusi merekonstruksi hak politik mantan narapidana melalui tiga dimensi, yaitu: *Pertama*, penafsiran baru terhadap syarat masa tunggu lima tahun dalam pencalonan anggota DPD dengan menegaskan bahwa ketentuan tersebut hanya berlaku bagi mantan narapidana yang dijatuhi pidana atas tindak pidana yang pidana penjara lima tahun atau lebih sehingga tidak berlaku bagi tindak pidana yang ancaman maksimalnya lima tahun. *Kedua*, adanya perluasan perlindungan hak politik mantan narapidana melalui akses perlindungan konstitusional dalam prosedur administrasi Pemilu meskipun gugatan yang diajukan merupakan perselisihan hasil Pemilu. *Ketiga*, penguatan peran MK sebagai *guardian of citizen constitutional rights* melalui pengakuan legal standing kepada bakal calon anggota DPD yang bukan peserta resmi Pemilu. Putusan ini menunjukkan bahwa keadilan elektoral tidak hanya diwujudkan melalui kepatuhan terhadap setiap prosedur administrasi Pemilu tetapi juga melalui pelaksanaan PSU DPD se-Sumatera Barat sebagai mekanisme koreksi dan pemulihan hak politik warga negara dalam proses penyelenggaraan Pemilu. Oleh karena itu, diperlukan penyempurnaan pengaturan mengenai syarat masa tunggu lima tahun bagi mantan narapidana yang ingin mencalonkan diri dalam Pemilu guna menjamin kepastian hukum, mencegah terulangnya perbedaan penafsiran dalam penerapan syarat masa tunggu lima tahun serta mewujudkan Pemilu yang sesuai dengan pemenuhan prinsip keadilan elektoral.

Kata Kunci: Hak Politik, Keadilan Elektoral, Mahkamah Konstitusi Mantan Narapidana, Pemilu DPD

¹ Mahasiswa Magister Ilmu Hukum, Program Pascasarjana, Fakultas Hukum, Universitas Gadjah Mada, Angkatan 2024, Konsentrasi Hukum Kenegaraan, email: meisya.anggraini.rizki@gmail.com

² Dosen Fakultas Hukum UGM sekaligus Pembimbing Utama

**The Reconstruction of the Political Rights of Former Convicts by the
Constitutional Court in Relation to the Fulfillment of the Principle
of Electoral Justice: A Case Study of Irman Gusman's Candidacy in the 2024
Election of the Regional Representative Council (DPD)
Meisya Anggraini Rizki³ Mahaarum Kusuma Pertiwi⁴**

ABSTRACT

This study aims to examine, analyze, and explain the implications of the Constitutional Court's decision for the reconstruction of the political rights of former convicted persons and its contribution to the fulfillment of the principle of electoral justice in the case of Irman Gusman's candidacy in the 2024 Regional Representative Council (DPD) election.

This research employs normative legal research using primary, secondary, and tertiary legal materials collected through library research, supported by interviews with resource persons to enrich the analysis. The study applies both the statutory approach and the case approach. Furthermore, the legal materials are analyzed qualitatively using descriptive and evaluative methods.

The findings show that the Constitutional Court reconstructs the political rights of former convicts through three dimensions. *First*, it reinterprets the five-year waiting period for DPD candidacy by affirming that the requirement applies only to former convicts sentenced for criminal offenses punishable by imprisonment of five years or more and does not apply to offenses carrying a maximum sentence of five years. *Second*, the Decision expands the protection of former convicts' political rights by providing access to constitutional protection within the electoral administrative process, although the petition concerned an electoral results dispute. *Third*, it strengthens the role of the Constitutional Court as the *guardian of citizens' constitutional rights* by recognizing the legal standing of a prospective DPD candidate who was not officially registered as an election participant. The Decision also demonstrates that electoral justice is realized not only through compliance with electoral procedures but also through the implementation of a re-vote (PSU) throughout West Sumatra Province as a mechanism for correcting violations and restoring citizens' political rights during the electoral process. Therefore, it is necessary to improve the regulation governing the five-year waiting period for former convicts seeking to run in elections to ensure legal certainty, prevent inconsistent interpretations of the waiting-period requirement, and promote elections that uphold the principle of electoral justice.

Keywords: Constitutional Court; Electoral Justice; Political Rights of Former Convicts; Constitutional Court; Regional Representative Council (DPD) Election.

³ Master of Law Student, Postgraduate Program, Faculty of Law, Universitas Gadjah Mada, Class 2024, Concentration of Constitutional Law, email: meisya.anggraini.rizki@gmail.com

⁴ Faculty of Law Lecturer, UGM and Supervisor