



THE CONSTITUTIONAL COURT

REPUBLIC OF INDONESIA

SUMMARY OF DECISION

ON CASE NUMBER 135/PUU-XIII/2015

Concerning

Rights to Vote and Rights to be Registered as Voter in General Election

- Petitioner** : **Healthy Soul Association, et al.**
- Case** : Judicial Review Number 8 of 2015 on Amendment to Law 1 of 2015 on Government Regulation In Lieu of Law 1 of 2014 on Governor, Regal, and Mayor Election enacted as Law (Law 8/2015) Against the 1945 Constitution of the Republic of Indonesia (UUD 1945)
- Case of Lawsuit** : Testing Article 57 paragraph (3) point a Law 8/2015 on Article 27 paragraph (1) and Article 28D paragraph (1) UUD 1945;
- Injunction** : 1. Announced that the Petitioners' case is partially admissible:
1.1. Article 57 paragraph (3) point a Law 8 of 2015 on Amendment to Law 1 of 2015 on Government Regulation Number 1 of 2014 on Governor, Regal, and Mayor Election Enacted as Law (The Republic Of Indonesia State Gazette Number 57 of 2015, Supplement to The Republic Of Indonesia State Gazette Number 5678) in contradiction to The Republic Of Indonesia 1945 Constitution, to the extent of the phrase "*psychologically/mentally disturbed and/or permanent mental illness according to professional psychologist had diminished an individual's capability to vote in general election*";
1.2. Article 57 paragraph (3) point a Law 8 of 2015 on Amendment to Law 1 of 2015 on Government Regulation In Lieu of Law 1 of 2014 on Governor, Regal, and Mayor

Election Enacted as Law (The Republic Of Indonesia State Gazette Number 57 of 2015, Supplement to The Republic Of Indonesia State Gazette Number 5678) is unenforceable to the extent of the phrase “*mentally ill/psychologically disturbed*” not interpreted as “*psychologically/mentally disturbed and/or permanent mental illness according to professional psychologist had diminished an individual’s capability to vote in general election*”;

2. Order the publication of this Decision in The Republic Of Indonesia State Gazette;
3. Dismiss the Petitioners’ case

Date of Decision : Thursday, 13 October 2016.

Decision Overview :

That the Petitioner I and the Petitioner II as legal entity engage in the defense and enforcement of rights of the people with mental illness/psychological disturbance. The Petitioner III as legal entity promoting democratic Election. The Petitioner IV is an Indonesian citizen with rights to vote and taxpayer.

In relation to the Court authority, for the case is a challenge to the constitutionality of norm under laws, in this case Law 8 of 2015 on Law 1 of 2015 on Amendment to Law 1 of 2015 on Government Regulation In Lieu of Law 1 of 2014 on Governor, Regal, and Mayor Election Enacted as Law (Law 8/2015) and UUD 1945, the Court is Competent to decide the Petitioner’s case.

In relation to the Petitioners’ legal standing, the Petitioners argued that the provisions under Article 57 paragraph (3) point a Law 8/2015, burdened the people with psychological issues because it diminished their rights to be registered as voter in general election. Such exclusion to voters with psychological issue prevented them from their objectives. The Court adjudicated the three Petitioners had proved the legal interests and the provisions challenged herein. But the Petitioner IV according to the Court could not proved direct legal interests to the provisions challenged

herein. That the status as taxpayer as argued by the Petitioner IV indeed granted a legal standing to the Petitioner in legal review by the Court, but only for any case closely related on taxation and constitutional damage which burdened the taxpayer. Therefore the Petitioner I, the Petitioner II, and the Petitioner III has legal standing to file the case. Whereas the Petitioner IV is not entitled to the legal standing to file the case.

That the primary issue herein is the Petitioners deemed their constitutional rights is burdened by Article 57 paragraph (3) point a Law 8/2015 because the Petitioners shall not be registered as potential voters when they suffered from mental/psychological disturbance upon voters registration. The Petitioners' concern is if they are excluded from voter registration they will be unable to vote in general election.

In addition according to the Petitioner, the exclusion of people with mental/psychological disturbance from voters registration is a flaw because of the confusion on the criteria of such mental/psychological disturbance. Mental illness has wide dimensions (type or category), each category not necessarily impaired the voters' capability to vote.

That review on Article 57 paragraph (3) point a Law 8/2015 and UUD 1945, the Court adjudicated:

1. rights to vote and rights to be registered as voter in general election is the rights of all Indonesian citizen who qualified;
2. voters registration is administrative unit indirectly correlated to the fulfillment of rights to vote;
3. mental illness and psychological disturbance is to different conditions even though both category is intertwined.

4. not everyone with mental illness and/or psychological disturbance will lost their capability as voter in general election; and
5. the absence of guideline/criteria and the absence of proper institution/profession to analyze the voters' psychological state, created potential constitutional burdened by the provisions challenged herein.

That even though the rights of the Petitioners to vote in general election is guaranteed at all times, but because Article 57 paragraph (3) point a Law 8/2015 could be interpreted an exclusion to the Petitioners right to be registered as voter, where such rights is protected under Article 28D paragraph (1) UUD 1945, thereby the Court adjudicated Article 57 paragraph (3) point a Law 8/2015 in contradiction to UUD 1945 to the extent of the phrase “psychologically/mentally disturbed and/or permanent mental illness according to professional psychologist had diminished an individual’s capability to vote in general election”. Thereby the Court announced that the Petitioners’ case is partially admissible.

After which the Court decided as follows:

1. Announced that the Petitioners’ case is partially admissible:
 - 1.1. Article 57 paragraph (3) point a Law 8 of 2015 on Amendment to Law 1 of 2015 on Government Regulation In Lieu of Law 1 of 2014 on Governor, Regal, and Mayor Election Enacted as Law (The Republic Of Indonesia State Gazette Number 57 of 2015, Supplement to The Republic Of Indonesia State Gazette Number 5678) in contradiction to The Republic Of Indonesia 1945 Constitution to the extent of the phrase “mentally ill/psychologically disturbed” not

interpreted as “psychologically/mentally disturbed and/or permanent mental illness according to professional psychologist had diminished an individual’s capability to vote in general election”;

1.2. Article 57 paragraph (3) point a Law 8 of 2015 on Amendment to Law 1 of 2015 on Government Regulation In Lieu of Law 1 of 2014 on Governor, Regal, and Mayor Election Enacted as Law (The Republic Of Indonesia State Gazette Number 57 of 2015, Supplement to The Republic Of Indonesia State Gazette Number 5678) is unenforceable to the extent of the phrase “mentally ill/psychologically disturbed” not interpreted as “psychologically/mentally disturbed and/or permanent mental illness according to professional psychologist had diminished an individual’s capability to vote in general election”;

2. Order the publishment of this Decision in The Republic Of Indonesia State Gazette;

3. Dismiss the Petitioners’ case