

## Hak mantan narapidana untuk dipilih dalam pemilihan umum kepada daerah = The rights of ex-convicts to be elected in local government election

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### Abstrak

Hak politik dilindungi hukum, baik secara internasional maupun nasional. Secara Internasional, hak politik diatur universal declaration of Human Rights ( UDHR) dan International Covenant on Civil and Political Rights (ICCPR). Secara Nasional, Hak politik juga dilindungi konsitusi kita dan beberapa peraturan perundang-undangan lainnya, terutama Undang-Undang No 39 tahun 1999 tentang Hak Asasi Manusia. Status mantan narapidana seseorang ternyata bisa membuat hak politik nya dibatasi contohnya dalam hal untuk menjadi kepala daerah. Pembatasan tersebut ditentukan secara tegas dalam pasal 58 huruf f Undang-Undang No 12 tahun 2008 tentang perubahan Undang-Undang No 32 tahun 2004 tentang Pemerintahan Daerah. Dalam perkembangannya, pasal tersebut kemudian diujikan ke Mahkamah Konsitusi lewat judicial review. Mahkamah Konsitusi telah mengeluarkan beberapa putusan secara konstitusional bersyarat (conditionally constitutional). Putusan tersebut membatalkan larangan berpolitik bagi mantan narapidana, akan tetapi memberikan syarat ? syarat keberlakuan yang limitatif. Syarat konstitusional dalam putusan Mahkamah Konstitusi tersebut lah yang akan dibahas secara detail dalam tulisan ini. Dengan tulisan ini penulis mencoba mengupas bagaimana hak politik mantan narapidana itu diatur, dilindungi dan diimplementasikan pasca putusan konstitusional bersyarat Mahkamah Konstitusi.

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<b>Abstract</b><br>

Political rights is protected by law, both internationally and nationally. Internationally , political rights regulation determined in universal declaration of Human Rights ( UDHR) dan International Covenant on Civil and Political Rights (ICCPR). Nationally, Political rights is also protected by our constitution and several legislation, especially law number 39 of 1999 about Human rights. According to law, someone?s ex-convicts status can lead him or her to political rights limitation. To become the head of local government for example. Those limitation is determined directly on article 58 letter f on Law number 12 of 2008 about revision on law number 32 of 2004 about Local Government. Afterwards, that article was tested to Constitutional Court through judicial review mechanism. Constututional Court then made a conditionally constitutional decicion on it. That decicion canceled the prohibiton on ex-convicts political right, but determined several constitutional requirement. Those constitutional requirements it self will

be criticized in this paper. By this, writer is trying to open clearly how ex-convicts political right is regulated, protected and implemented after those Consitutional Court?s decicion