

Analisa yuridis penerapan sistem suara terbanyak dalam pemilihan umum calon Dewan Perwakilan Rakyat Republik Indonesia sebagai dampak atas putusan MK Nomor 22-24/PUU-VI/2008 = Legal analysis of implementating about majority voters system in the candidate house of representatives of the republic of indonesia elections for impact on constitutional court decision No 22-24 PUU-VI/2008

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Abstrak

[ABSTRAK

Mahkamah Konstitusi dalam Putusannya Nomor 22-24/PUU-VI/2008 tertanggal 23 Desember 2008 yang menyatakan bahwa penetapan calon terpilih berdasarkan Ketentuan Pasal 214 huruf a, huruf b, huruf c, huruf d, dan huruf e Undang-Undang Nomor 10 Tahun 2008 adalah inkonstitusional, dikarenakan antara lain telah melanggar kedaulatan rakyat, bertentangan dengan prinsip keadilan dan mengurangi legitimasi rakyat untuk memilih. Mahkamah telah keliru dalam menafsirkan makna kedaulatan rakyat dan demokrasi dalam sistem pemilihan umum. Hal ini disebabkan karena Mahkamah Konstitusi hanya secara parsial menafsirkan teori kedaulatan rakyat dalam konteks pemilihan umum, tanpa melihat amanat konstitusi Pasal 22 E ayat (3) UUD 1945, dan Undang-Undang Partai Politik sekaligus teori yang mendasari tentang sistem pemilihan umum, seperti teori kedaulatan rakyat, teori demokrasi, teori partai politik dan teori negara hukum, yang menempatkan Partai Politik sebagai pilar utama demokrasi. Putusan Mahkamah dipertegas kembali di dalam Pasal 215 Undang-Undang Nomor 8 Tahun 2012, yang mengatur penetapan calon anggota DPR RI, DPRD Propinsi dan DPRD Kabupaten/Kota terpilih dengan sistem proporsional terbuka murni, yang ditetapkan berdasarkan calon yang memperoleh suara terbanyak. Ketentuan ini pada prakteknya memiliki banyak kekurangan dan telah merusak sendi-sendi demokrasi dan kedaulatan rakyat itu sendiri. Hal tersebut dapat dilihat dari politik hukum terbentuknya Undang-Undang Nomor 8 Tahun 2012, walaupun berkarakter responsif, akan tetapi belum mampu menjawab kebutuhan masyarakat, dikarenakan dihasilkan dari suatu Konfigurasi Politik yang ?terkesan? Demokratis, dengan mengedepankan tindakan strategis dan partisipasi masyarakat secara proforma.

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ABSTRACT

Constitutional Court in its Decision No. 22-24/PUU-VI/2008 dated on December 23, 2008 which stated that the determination of selected candidates based on provisions of Article 214 letters a, b, c, d and e of Law Number 10 Year 2008 is unconstitutional, due among other things to have violated the sovereignty of the people, contrary to the principles of justice and reduce the legitimacy of the people to choose. Court had erred in interpreting the meaning of popular sovereignty and democracy in the electoral system, such as theory of sovereignty people, democratic theory, theories of political parties and state law theory, which puts political parties as the main pillar of democracy. Court decision reaffirmed in Article 215 of Law No. 8 of 2012, which set the nominations to the House of Representatives, Provincial and Regency / City elected to open a pure proportional system, which is determined based on the candidate who gets the most votes. This provision in practice has many shortcomings and have damaged joints democracy and popular sovereignty

itself. This can be seen from the legal political formation of the Law No. 8 of 2012, although the character is responsive, but has not been able to address the needs of the community, because the result of a political configuration that is "impressed" Democratic, by prioritizing strategic actions and public participation in the proforma; Constitutional Court in its Decision No. 22-24/PUU-VI/2008 dated on December 23, 2008 which stated that the determination of selected candidates based on provisions of Article 214 letters a, b, c, d and e of Law Number 10 Year 2008 is unconstitutional, due among other things to have violated the sovereignty of the people, contrary to the principles of justice and reduce the legitimacy of the people to choose. Court had erred in interpreting the meaning of popular sovereignty and democracy in the electoral system, such as theory of sovereignty people, democratic theory, theories of political parties and state law theory, which puts political parties as the main pillar of democracy. Court decision reaffirmed in Article 215 of Law No. 8 of 2012, which set the nominations to the House of Representatives, Provincial and Regency / City elected to open a pure proportional system, which is determined based on the candidate who gets the most votes. This provision in practice has many shortcomings and have damaged joints democracy and popular sovereignty itself. This can be seen from the legal political formation of the Law No. 8 of 2012, although the character is responsive, but has not been able to address the needs of the community, because the result of a political configuration that is "impressed" Democratic, by prioritizing strategic actions and public participation in the proforma, Constitutional Court in its Decision No. 22-24/PUU-VI/2008 dated on December 23, 2008 which stated that the determination of selected candidates based on provisions of Article 214 letters a, b, c, d and e of Law Number 10 Year 2008 is unconstitutional, due among other things to have violated the sovereignty of the people, contrary to the principles of justice and reduce the legitimacy of the people to choose. Court had erred in interpreting the meaning of popular sovereignty and democracy in the electoral system, such as theory of sovereignty people, democratic theory, theories of political parties and state law theory, which puts political parties as the main pillar of democracy. Court decision reaffirmed in Article 215 of Law No. 8 of 2012, which set the nominations to the House of Representatives, Provincial and Regency / City elected to open a pure proportional system, which is determined based on the candidate who gets the most votes. This provision in practice has many shortcomings and have damaged joints democracy and popular sovereignty itself. This can be seen from the legal political formation of the Law No. 8 of 2012, although the character is responsive, but has not been able to address the needs of the community, because the result of a political configuration that is "impressed" Democratic, by prioritizing strategic actions and public participation in the proforma]