

The Inaccuracy of the General Election Organizers in Determining the Pair Yusak Yaluwo and Yakob Waremba as Candidates for Regent and Deputy Regent of Boven Digoel Regency

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Abstract

This study aims to identify the requirements set by law for regional head candidate pairs and the problems related to the determination of Yusak Yaluwo and Yakob Waremba in the election of the regent and vice regent of Boven Digoel Regency. This method is known as normative juridical. In this legal research, law is defined either as a statute that is stipulated or as a rule or norm that is a standard of human behavior that is considered appropriate. Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law in the Regulation of the General Election Commission of the Republic of Indonesia stipulates the requirements that must be met by regional head candidate pairs in the regional head election. In addition, the problem related to the determination of Yusak Yaluwo and Yakob Weremba as candidates for regent and vice regent of Boven Digoel Regency is related to the trial of Violation of the Code of Ethics of Election Organizers against the Boven Digoel Regency KPU, Boven Digoel Regency Bawaslu, and members of the Papua Province KPU. In addition, the Lawsuit for Dispute over the Results of the Boven Digoel Regent and Vice Regent Election has been decided by the Constitutional Court to disqualify Candidate Pair Number 4 (four) on behalf of Yusak Yaluwo and Yakob Weremba.

1. Introduction

Based on the 1945 Constitution of the Republic of Indonesia, the mechanism of people's sovereignty in organizing the state and government is democracy, as stated in Article 1 paragraph (2), which states that sovereignty is in the hands of the people and is implemented according to the Constitution. Democracy must be built and developed

based on the principles of balance, harmony, compatibility, and justice in the life of the nation and state, covering all areas of life, including politics, economics, social, and culture, as well as defense and security. In other words, the mechanism of democracy in Indonesia is basically the entire process of implementing government power that is inspired by the people.

The name "democracy" comes from the Greek. *Kratos* is government or power, and *demos* is the people.¹ Democracy (*demokratie*) is a form of government or the highest state power, with the highest source of power being the power of the people gathered through an assembly called the People's Consultative Assembly (all power is only in the assembly). According to the definition of language, democracy is a system or type of government in which all people participate and rule through elected representatives called the people's government.² However, in the legal dictionary, "democracy" or "democratie" (Dutch) is a type of government that is centered on the people.³

Adherents of direct democracy, or participatory democracy, must recognize the importance of citizen participation in the decision-making process and its implementation. This shows that good democracy is not only about procedures and content; it is also about results.⁴

Since Law Number 32 of 2004 concerning Regional Government, the people have directly elected regional heads, including the election of governors and deputy governors. *Pilkada*, or regional head elections, are evidence of the implementation of democracy in Indonesia; in other words, *Pilkada* is the embodiment of democracy in Indonesia. The first direct regional elections in Indonesia, which began in June 2005, demonstrated the progress of Indonesian democracy by giving people the opportunity to directly elect their own leaders according to their own beliefs. This system is expected to allow people to identify or know who the most suitable candidate is for the position. In 2014, the government and the DPR conducted an evaluation of the implementation of regional head elections for legal political policies after ten years of direct elections for governors and mayors by the people. Law Number 22 of 2014 concerning the Election of Governors, Regents, and Mayors is the result of these legal political policy efforts. This law regulates the method of re-election by the DPRD for the positions of governor, regent, and mayor.

Law Number 22 of 2014 was a futile effort, because this law was rejected by the public, this is evidence that the process of drafting and forming the law was not conducted in-depth studies and did not directly involve the public, but only based on the dynamics and interests of political parties. This law was only valid for 2 days, because on October 2, 2014 the President at that time Susilo Bambang Yudhoyono issued a Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors, which revoked Law Number 22 of 2014. Furthermore, *Perpu* Number 1 of 2014 became Law Number 1 of 2015 concerning the

¹ Bondan Guanawa. (2000). *Apa itu Demokrasi*, Pustaka Sinar Harapan, Jakarta, 2000, h. 1.

² Anton M, Moelkliono, et al. (1995). *Kamus Umum Bahasa Indonesia*, Balai Pustaka, Jakarta, h. 220.

³ J.C.T Simorangkir dkk. (2000), *Kamus Hukum*, Sinar Grafika, Jakarta, h. 36.

⁴ Leonardo Morlino. (2002), *What is a Good Democracy, Theory and Empirical Analysis*, Paper disampaikan pada the Conference on the European Union, Nation State and the Quality of Democracy, Lessons from Southern Europe, University of California, Berkeley, h. 60.

Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law. According to Law No. 1 of 2015, the term simultaneous regional head elections is used in various regions. The 2020 simultaneous regional elections took place in 270 regions, including 9 provinces, 224 regencies, and 37 cities. In Papua Province, 11 regencies, including Boven Digoel Regency, were involved in its implementation.

Based on the Decree of the Boven Digul Regency KPU Number: 19/PL.02.3-Kpt/9116/KPU-Kab/IX/2020 concerning the Determination of Candidate Pairs for the Boven Digoel Regent and Deputy Regent Election, the Boven Digul Regency KPU has determined 4 Candidate Pairs, namely: (1) Candidate Pair Martinus Wagi and Isak Bagri, (2) Candidate Pair Lukas Kwaron Lexi Romer Wagiu, (3) Candidate Pair Chairul Anwar Natsir, Natalis B. Kaket and (4) Candidate Pair Yusak Waluyo and Yakob Waremba. The determination of the Candidate Pair Yusak Waluyo and Yakob Waremba has caused pros and cons, because many people consider that Yusak Waluyo does not meet the requirements.

Furthermore, the KPU stipulated letter Number 982/SDM.13-SD/05/KPU/XI/2020 concerning the Takeover of Duties and Responsibilities for the Implementation of the Stages of the Election of the Regent and Deputy Regent of Boven Digoel Regency which ordered the Papua Provincial KPU to take over the duties and responsibilities for the Implementation of the Stages of the Election of the Regent and Deputy Regent of Boven Digul Regency in 2020. Furthermore, the Boven Digoel Regency KPU stipulated the Boven Digoel Regency KPU Decree Number 32/PL.02.3-Kpt/9116/KPU-Kab/XI/2020 concerning amendments to the KPU Decree Number: 19/PL.02.3-Kpt/9116/KPU-Kab/IX/2020, dated November 23, 2020 which in essence still stipulates Yusak Waluyo as the candidate for Regent of Boven Digoel. Then based on KPU Decree Number 583/SDM.13-Kpt/05/KPU/XI/2020, concerning the Takeover of Duties, Authorities and Obligations of the Papua Province KPU which in essence takes over all the duties, authorities and obligations of the Papua Province KPU for the 2018-2023 Period, which issued KPU Letter Number: 584/PL.02.2-Kpt/06/KPU/XI/2020, concerning the determination of the Candidate Pairs for the 2020 Boven Digoel Regency Regent and Deputy Regent Election, determining the candidate pairs for the 2020 Boven Digoel Regency Regent and Deputy Regent Election as follows:

- a) Candidate Pair for Regent and Deputy Regent Mr. Hengki Yulawo and Mr. Lexi Romel Wagiu proposed by the NasDem Party and the Gerindra Party.
- b) Candidate Pair for Regent and Deputy Regent Mr. Chaerul Anwar Natsir and Mr. Nathalis B. Kake proposed by the PPP and PKB.
- c) Candidate Pair for Regent and Deputy Regent Mr. Marthinus Wagi and Mr. Isak Bangris proposed by the PDIP and PKS.
- d) At the time this decision comes into effect, all Decisions of the Boven Digoel Regency KPU insofar as they relate to the Determination of Serial Numbers and List of Candidate Pairs in the names of Yusak Yaluwo and Yakob Weremba are revoked and declared null and void.

Due to this determination, the Yusak Yaluwo and Yakob Weremba Pair filed a dispute with the Boven Digoel Regency Election Supervisory Body and based on the Decision of the Boven Digoel Regency Election Supervisory Body Register Number:

001/PS.REG/33.04/XII/2020 which re-determined the Yusak Yaluwo and Yakob Weremba Pair as participants in the Boven Digoel Regent and Deputy Regent Election.

2. Research Method

In this study, normative juridical is used. In this legal research, law can be defined as what is written in the law books or as a rule or standard that is the right standard for human behavior. This concept argues that law is the same as the rules made and established by authorized state institutions or officials. This concept considers law as a normative system that is separate from real community life.⁵

3. Results and Discussion

a. Regulation of Requirements for Regional Head Candidate Pairs in Legislation can be seen among others:

1. Law Number 1 of 2015 concerning the Election of Governors, Regents, and Mayors into Law. Regional elections based on Legislation in the constitution explain the basis for holding general elections, namely: "General elections are held to elect members of the People's Representative Council, Regional Representative Council, President and Vice President and Regional People's Representative Council", which are carried out directly, generally, freely, secretly, honestly, and fairly every five years (Article 22E paragraph (2) of the 1945 NRI Constitution). Also the implementation of Regional Head elections, namely: "Governors, Regents, and Mayors as heads of provincial, district, and city governments are elected democratically" as regulated in Article 18 paragraph (4) of the 1945 NRI Constitution. Pilkada is truly a means for the people to choose the best leader for their region and its people. It is hoped that this regional leader can fulfill the expectations of the majority of the people, accelerate economic growth, improve welfare, and maintain sovereignty with dignity. In addition, the aspirations of the people demand major changes in policies that benefit the people. In the development of regional head elections, in 2014 the Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors was issued, which was then ratified as Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law.

This Law regulates the Requirements for Regional Head Candidate Pairs in Article 7, namely Indonesian citizens who can become Governor Candidates, Regent Candidates, and Mayor Candidates are those who meet the following requirements:

- a) must be devoted to God Almighty;
- b) must be loyal to Pancasila and the 1945 Constitution;
- c) must have at least a high school education;
- d) have taken a Public Test;

⁵ Ronny Hanitijo Soemitro. (1990). *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, h. 13-14.

- e) minimum age of 25 (twenty five) years for Candidates for Regent and Candidates for Mayor and 30 (thirty) years for Candidates for Governor;
- f) physically and mentally healthy;
- g) never been sentenced to prison by a court decision;
- h) based on a court decision, the person's right to vote is not being revoked;
- i) must not commit disgraceful acts;
- j) personal assets must be registered;
- k) do not have debt obligations that are detrimental to state finances;
- l) based on a court decision is not being declared bankrupt;
- m) have a Taxpayer Identification Number;
- n) has never served as Governor, Regent or Mayor for 2 (two) terms
- o) resigning from their positions for Governors, Regent, and Mayor who are running in other regions;
- p) does not have the status of acting Governor, Regent or Mayor;
- q) have no conflict of interest;
- r) must notify the leadership of the People's Representative Council or the DPRD of his/her candidacy as Governor, Regent, or Mayor;
- s) resign from the TNI, Police and Civil Service membership since registering as a candidate;
- t) resign from his position at a BUMN or BUMD.

In order to fulfill the sense of justice, further amendments were made to the Law by issuing Law Number 8 of 2015 concerning the First Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law. In Law Number 8 of 2015, Amendments to Article 7 concerning the requirements that must be met by Regional Head Candidate Pairs are also regulated by removing letter (d) having taken the Public Test; Thus, Regional Head Candidate Pairs, both for Provinces and Regencies/Cities, do not need to carry out or take the Public Test.

2. Regulations made by the General Election Commission of the Republic of Indonesia. As part of the implementation of the Constitutional Court Decision Number 99/PUU-XVI/2018 and the Constitutional Court Decision Number 48/PUU-XVII/2019, it is necessary to make adjustments and evaluations to the provisions of the General Election Commission Regulation Number 3 of 2017 concerning the Nomination of Governors and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy, that Article 4 states that the requirements that must be met by regional head candidates are as follows:
- a) must be devoted to God Almighty;
 - b) must be loyal to Pancasila and the 1945 Constitution;
 - c) must have at least a high school education;
 - d) minimum age of 25 (twenty five) years for Candidates for Regent and Candidates for Mayor and 30 (thirty) years for Candidates for Governor;
 - e) physically and mentally healthy and free from drug abuse;
 - f) have never been convicted based on a court decision that has obtained permanent legal force for committing a crime that is threatened with imprisonment of 5 (five) years or more, except for convicts who commit criminal negligence or political crimes in the sense of an act that is declared a criminal act in positive law only because the perpetrator has a political

- view that differs from the regime in power;
- g) Former Convicts who have completed their sentence are required to honestly or openly state this to the public;
 - h) are not former convicts of drug dealers or former convicts of sexual crimes against children;
 - i) are not currently having their voting rights revoked based on a court decision that has permanent legal force;
 - j) have never committed a reprehensible act;
 - k) provide a list of personal assets to the relevant authorities;
 - l) do not have debt obligations that are detrimental to state finances;
 - m) based on a court decision is not being declared bankrupt;
 - n) have a Taxpayer Identification Number;
 - o) has never served as Governor, Regent or Mayor for 2 (two) terms;
 - p) resigning from their positions for Governors, Regent, and Mayor who are running in other regions;
 - q) does not have the status of acting Governor, Regent or Mayor;
 - r) have no conflict of interest;
 - s) must notify the leadership of the People's Representative Council or the DPRD of his/her candidacy as Governor, Regent, or Mayor;
 - t) resign from the TNI, Police and Civil Service membership since registering as a candidate;
 - u) resign from his position at a BUMN or BUMD.
 - v) resign as a member of the KPU, Provincial/District/City Bawaslu before the formation of the PPK and PPS.

The provisions stipulated in this KPU Regulation are very clear regarding the requirements that must be met by regional head and deputy regional head candidate pairs without any other interpretation, for example, a period of 5 (five) years has been completed serving a prison sentence as calculated from the date the prospective candidate concerned has completed serving his sentence, both the main sentence and the additional sentence, up to the time of registration as a prospective candidate.

b. Problems in determining the candidate pair Yusak Yaluwo and Yakob Waremba for the election of Regent and Deputy Regent of Boven Digoel Regency.

1. Registration and Determination of Candidate Pair Yusak Yaluwo and Yakob Waremba.

The process of simultaneous regional head elections for Boven Digoel Regency in 2020 was quite tough, unlike other regencies that succeeded in carrying out the election stages according to the set schedule, namely on December 9, 2020. The regional head election in Boven Digoel Regency experienced several polemics, namely by re-nominating Yusak Yaluwo who had served as Regent of Boven Digoel Regency from 2005 to 2013.

That on September 5, 2020, the Prospective Candidate Pair in the name of Yusak Yaluwo and Yakob Weremba, registered at the Boven Digoel KPU Office with the support of the Demokrat, Golkar, and Perindo Parties; That at the time of registration, the Chairperson of the Boven Digoel KPU Helda Richarda Ambay was surprised because the Merauke District Court issued a Certificate stating that Yusak Yaluwo had never been a convict based on a court decision that had

permanent legal force, whereas to the knowledge of the Chairperson of the Boven Digoel KPU Helda Richarda Ambay, Yusak Yaluwo was a former convict.

To obtain clarity regarding the Certificate issued by the Merauke District Court, on Friday, September 11, 2020, the Chairperson of the Boven Digoel KPU Helda Richarda Ambay accompanied by the Boven Digoel Bawaslu Commissioner Frans Upessy conducted verification at the Merauke District Court and met with the Chairperson of the Merauke District Court Orpa Martina and the Secretary/Registrar of the Merauke District Court.

According to the Chairperson of the Merauke District Court, the Certificate was issued based on the ERATERANG Application, where when the officer entered the name Yusak Yaluwo, no file related to the Supreme Court Decision appeared. Yusak Yaluwo, so that the Merauke District Court issued a certificate aquo.

Then on Monday, September 14, 2020 the Head of the Boven Digoel KPU invited the Boven Digoel Regency Bawaslu, and the four Prospective Candidate Pairs to hold a Meeting regarding the notification of the results of the administrative verification. which stated that there were requirements that had not been met by Yusak Yaluwo, because the documents issued by the Merauke District Court were incorrect and were a public deception, because the ERATERANG application is a new application and only covers case data from 2018 to 2020. Thus, Yusak Yaluwo does not meet the requirements as a Candidate for Regent, this was conveyed by the Head of the Boven Digoel KPU Helda Richarda Ambai and the Boven Digoel KPU Commissioner Johanna Maria Ivone Anggawen. Then there was a debate and differences of opinion in the meeting, but at the insistence and opinion of four Bawaslu Commissioners and three KPU Commissioners, the meeting finally decided and stated that Yusak Yaluwo met the requirements as a candidate for Regent of Boven Digoel Regency, which was stated in Number 19 / PL.02.3-Kpt / 9116 / KPU-Kab / IX / 2020, dated; September 23, 2020 concerning the Determination of Candidates for the Election of Regent and Deputy Regent of Boven Digoel Regency.

Furthermore, based on the Decree of the Indonesian General Election Commission Number 583/SDM.13-Kpt/05/KPU/XI/2020, the Papua Provincial General Election Commission took over all duties, authorities, and obligations of the Papua Provincial General Election Commission from 2018 to 2023. In addition, the General Election Commission has issued a General Election Commission Letter Number 584/PL.02.2-Kpt/06/KPU/XI/2020, which determines the candidate pairs for the 2020 Boven Digoel Regency Regent and Deputy Regent Election:

- a) Candidate Pair for Regent and Deputy Regent Mr. Hengki Yulawo and Mr. Lexi Romel Wagi proposed by the NasDem Party and the Gerinda Party.
- b) Candidate Pair for Regent and Deputy Regent Mr. Chaerul Anwar Natsir and Mr. Nathalis B. Kake proposed by PPP and PKB.
- c) Candidate Pair for Regent and Deputy Regent Mr. Marthinus Wagi and Mr. Isak Bangris proposed by PDIP and PKS.
- d) At the time this decision comes into effect, all Decisions of the Boven Digoel Regency KPU insofar as they relate to the Determination of Serial Numbers and List of Candidate Pairs in the names of Yusak Yaluwo and Yakob

Weremba are revoked and declared invalid.

The KPU's consideration in issuing Decree Number: 584/PL.02.2-Kpt/06/KPU/XI/2020, is based on the Supreme Court Decision whose verdict is:

- a) Declaring that the Convict YUSAK YALUWO, SH., M.Sc. has been proven legally and convincingly guilty of committing a criminal act of corruption as a joint act;
- b) Sentencing the Convict YUSAK YALUWO to imprisonment for 4 (four) years and 6 (six) months, and a fine of Rp. 200,000,000. (two hundred million rupiah) with the provision that if the fine is not paid, it will be replaced with imprisonment for 6 (six) months;
- c) Sentenced YUSAK YALUWO to pay compensation of 45,772,287,123 (forty five billion seven hundred two million two hundred eighty three rupiah). If the Convict does not pay compensation within one month since the Court's decision has permanent legal force, his property can be confiscated by the Prosecutor and auctioned to cover the compensation. If the Convict does not pay compensation within one month, the decision;
- d) Ordering the period of detention that has been served by the Convict to be deducted in full from the sentence imposed.

In relation to the Supreme Court Decision, the Head of Sukamiskin Prison has issued a Statement Letter from Number W11.PAS.PAS.1-PK.01.01.02.0419, which states that Yusak Yaluwo, received a sentence of 4 years and 6 months; A fine of 200,000,000.- Subsidiary 6 months has been paid, while the replacement money of Rp. 45,772,287,123.- has not been paid. Therefore, with the replacement money not yet paid, Yusak Yaluwo must still serve a prison sentence of 2 (two) years.

Due to the determination, the Yusak Yaluwo and Yakob Weremba Pair filed a dispute with the Boven Digoel Regency Election Supervisory Body. Based on the Election Dispute Resolution Decision, the Boven Digoel Regency Election Supervisory Body Register Number: 001/PS.REG/33.04/XII/2020. DECIDES:

- a) To grant the Applicant's Application in its entirety;
- b) To cancel the Decree of the General Election Commission of the Republic of Indonesia Number 584/PL.02.2-Kpt/06/KPU/XI/2020 concerning the Determination of Candidate Pairs for the 2020 Boven Digoel Regency Regent and Deputy Regent Election dated November 28, 2020;
- c) Order the General Election Commission (KPU) of the Republic of Indonesia and/or the Papua Province KPU as the Boven Digoel Regency KPU to issue a Decree/Minutes regarding the determination of the Applicant as the Candidate Pair for Regent and Deputy Regent in the 2020 Boven Digoel Regency Regent and Deputy Regent Election;
- d) Order the General Election Commission (KPU) of the Republic of Indonesia and/or the Papua Province KPU as the Boven Digoel Regency KPU to follow up on this decision no later than 3 (three) working days from the time this decision was read on Tuesday, the Eighth of December, Two Thousand and Twenty.

Thus, based on the Decision of the Boven Digoel Regency Bawaslu in the Settlement of Election Disputes, the Yusak Yaluwo and Yakob Weremba Pair

was re-determined as participants in the Boven Digoel Regent and Deputy Regent Election.

2. Implications for the Determination of Candidate Pair Yusak Yaluwo and Yakob Waremba.

- a) Decision of the Trial of the Code of Ethics Case Number 140-PKE-DKPP/IX/2020 for Members of the Boven Digoel KPU, and the Trial of the Code of Ethics Case Number 146-PKE-DKPP/IX/2020 for the Chairperson and Members of the Boven Digoel Regency Bawaslu.

In relation to the determination of the Candidate Pair Yusak Waluyo and Yakob Waremba, the candidate for Regent H. Chaerul Anwar Natsir, reported the Violation of the Code of Ethics committed by the Organizers, both the Boven Digoel Regency KPU and the Papua Province KPU and the Boven Digoel Regency Bawaslu, to the Election Organizer Honorary Council, where in the complaint submitted by the Complainant, the violation of the Code of Ethics committed by the Defendant and/or Reported Party is as follows: Defendant I: Liberatus Pogolamun, Defendant II, Hatta Nongkeng, Defendant III: Veronica, each as a Member of the Boven Digoel Regency KPU). and from the Boven Digoel Regency Bawaslu, namely Defendant I, Fransiskus Asek, Defendant II, Mahmudin Abudlah, Defendant III, Frans Upessy, Defendant IV, Luthera Nawuly M. Benggeyap and Defendant V, Emanuel Alimap Members, each as Chairperson and member. Bawaslu Boven Digoel Regency.

That the Respondents from the Boven Digoel Regency KPU, Libertus Pogolamun, Hatta Nongkeng and Veronica, did not pay attention to and ignored the hierarchical relationship with the Papua Province KPU, namely not coordinating and ignoring the coordination of the Papua Province KPU from Melkianus Kambu regarding the status of the prospective candidate Yusak Yaluwo before being determined as a candidate pair.

That the third reason of the Respondents from the Boven Digoel KPU members, stating that the prospective candidate Yusak Yaluwo met the requirements because based on considerations of social conditions and in order to create a safe situation in Boven Digoel Regency is a reason that cannot be justified and accepted. The state has a law enforcement institution that is authorized and responsible for realizing order and security for the community in every stage of the implementation of the Regional Head Election in Boven Digoel Regency.

In addition, the Respondents did not care about directions including communication via cellphone from the Papua Province KPU (Melkianus Kambu). In addition, the defendants did not seriously carry out the task given by the Boven Digoel KPU commissioner through the KPU Chairperson to carry out factual clarification and verification regarding the certificate from Sukamiskin Prison submitted by Yusak Yaluwo in the nomination requirements document. Observing the existence of Respondents I, II and Respondent III (members of the Boven Digoel KPU have not carried out their duties professionally, then Respondent I, Liberatus Pogolamun, Respondent II Hatta Nongken and Respondent III Veronika Lande, members of the Boven Digoel KPU were given sanctions in the form of Permanent Dismissal.

Regarding Respondents I to Respondents V, the DKPP decided: To rehabilitate the good names of Respondent Fransiskus Asek, Respondent Mahmudin Abdullah, Respondent Frans Upessy, Respondent Lutherana Nawuy Menggeyap, Respondent Emanuel Alimap respectively as Chairperson and Member of the Boven Digoel Regency Bawaslu have carried out their duties and responsibilities professionally. cannot be given sanctions but rather carry out Good Name Restoration.

- b) Decision of the Trial of the Code of Ethics Case Number 162-PKE-DKPP/XI/2020 for members of the Papua Province KPU.

Through the Code of Ethics Trial, the Election Organizer Honorary Council held in Jakarta read out the sanctions for the dismissal of seven Commissioners of the General Election Commission in Papua from both the Province and Regency which were dismissed which was carried out on Wednesday, March 3, 2021. The Dismissal Sanction against the seven KPU Commissioners in Papua was read out by the Chairperson of the DKPP Assembly, Muhammad in the verdict reading session. The dismissal of the seven KPU commissioners was the result of the Boven Digoel Regency Regional Head Election polemic. The seven election organizers who were dismissed consisted of four Papua Province KPU Commissioners and three Boven Digoel Regency KPU Commissioners. Four Commissioners of the Papua Province KPU are the defendants in case Number 162-PKE-DKPP/XI/2020 on behalf of Theodorus Kossay who serves as the chairman of the Papua Province KPU and three of his members, namely Jufri Abu Bakar, Fransiskus Letsoin, and Mekianus Kambe. Case Number 162-PKE-DKPP/XI/2020 with the defendants on behalf of Theodorus Kossay who is the chairman of the Papua Province KPU and each of his members named Zufri Abubakar, Fransiskus Antonius Letsoin, and Melkianus Kambu. The DKPP assessed that their actions in stating that Yusak Yaluwo had met the requirements as a candidate for Regent and Deputy Regent in 2020 could not be justified according to law and ethics. According to the DKPP, their actions contradict the results of the clarification carried out by the Papua Province KPU on October 22, 2020 and stated that Yusak Yaluwo had not met the five-year gap requirement so that TMS as a Candidate for Regent and Deputy Regent in 2020. In addition, their actions were also considered to have caused the issue of fulfilling the requirements for Candidate for Regent Yusak Yaluwo to drag on so that 12 people from Boven Digoel Regency could not exercise their voting rights in the election for Regent and Deputy Regent of Boven Digoel Regency according to schedule, namely on December 9, 2020. So they were proven to have violated Article 7, Article 8 letter a, Article 10 letter a, and Article 11 letter a of the Regulation of the Election Organizer Honorary Council Number 2 of 2017 concerning the Code of Ethics and Guidelines for the Conduct of Election Organizers. "Imposing a permanent dismissal sanction on the defendants Theodorus Kossay, Zufri Abubakar, Fransiskus Antonius Letsoin, and the defendant Melkianus Kambu, each as a member of the Papua Province KPU since this decision was read out.

- c) Constitutional Court Decision NUMBER 132/PHP.BUP-XIX/202.

As a follow-up to the election of the regent and deputy regent of Boven

Digoel Regency, the voting event was finally held on December 28, 2020. The recapitulation stage of the vote count results for the 2020 Boven Digoel Regency regent/deputy regent election was completed on January 2-3, 2021, with the candidate pair for Regent and Deputy Regent Yusak Yaluwo and Yakob Weremba, obtaining 16,319 votes or 54.3% of the 30,865 valid votes, thus the Yusak Yaluwo and Yakob Weremba pair were declared the winners of the election for Regent and Deputy Regent of Boven Digoel Regency. Decree of the Boven Digoel Regency KPU Number 1/PL.02.06-Kpt/9116/KPU-Kab/I/2021 concerning the Determination of the Recapitulation of Vote Count Results for the 2020 Boven Digoel Regency Regent and Deputy Regent Election, dated January 3, 2021.

Martinus Wagi and Isak Bangri, SE, candidate pair for regent number 3, filed a lawsuit for a dispute over the general election results with the Constitutional Court with case number 132/PHP.BUP-XIX/2021 related to the decision. In their lawsuit, the applicants strongly disagreed with the results of the vote count for the 2020 Boven Digoel Regency Regent and Deputy Regent Election made by the KPU. The applicants argued that Candidate Pair Number 4 (Yusak Yaluwo, SH, and Yakob Weremba) had received more votes than they should have because Candidate Pair Number 4 did not meet the requirements to be nominated, and the nomination process was carried out unfairly.

So according to the Constitutional Court, Yusak Yaluwo had not yet passed the 5-year hiatus when registering as a prospective candidate for Regent of Boven Digoel Regency in 2020 because the 5-year hiatus only ended after January 26, 2022. So that the registration process for the Candidate pair which was carried out on September 4 to 6, 2020 which had determined the related party who had determined the Related Party as a Candidate Pair for the 2020 Boven Digoel Regent and Deputy Regent Election Number 4 is not in accordance with the provisions of Article 7 paragraph (2g) of Law Number 10 of 2016, the implementation of which is regulated in the provisions of Article 4 paragraph (1f) and paragraph (2a) of PKPU 1/2020. Because Candidate for Regent Number 4 (Yusak Yaluwo) does not meet the nomination requirements, then the person concerned must be disqualified from the nomination as a participant in the 2020 Boven Digoel Regency Regent and Deputy Regent election. In reading this decision, the Constitutional Court also ordered that because the determination of the Candidate Pair for Regent and Deputy Regent of Boven Digoel Number 4 was declared not to meet the requirements and was disqualified, then the decision of the Boven Digoel Regency KPU in 2020. In the Main Petition, the Constitutional Court granted the applicant's petition in its entirety, and also declared the disqualification of the Candidate Pair for Regent and Deputy Regent of Boven Digoel Regency Number 4 on behalf of Yusak Yaluwo and Yakob Weremba who were determined based on the Decree of the Boven Digoel General Election Commission Number 19 / PL / 02.3- 14 Kpt / 9116-KPU-Kab / IX / 2020 concerning the determination of the Candidate Pair for Participants in the 2020 Boven Digoel Regency Regent and Deputy Regent election. In the main point of this petition, the Constitutional Court also ordered the Indonesian KPU to carry out

supervision and coordination with the Papua Province KPU as the Boven Digoel Regency KPU.

4. Conclusion

The Regulation of the Requirements for Regional Head Candidate Pairs in the Regional Head Election has been regulated in Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law in the Regulation of the General Election Commission of the Republic of Indonesia, matters that must be fulfilled by the Regional Head Candidate Pairs. Meanwhile, the Problematics of the Determination of Yusak Yaluwo and Yakob Weremba as the Candidate Pair for Regent and Deputy Regent of Boven Digoel Regency, resulted in the trial of the Violation of the Code of Ethics of Election Organizers against the Boven Digoel Regency KPU, Boven Digoel Regency Bawaslu and members of the Papua Province KPU, as well as the Lawsuit for Dispute over the Results of the Boven Digoel Regent and Deputy Regent Election, at the Constitutional Court which disqualified Candidate Pair Number 4 (four) on behalf of Yusak Yaluwo and Yakob Weremba. Based on the conclusion above, the author can suggest that it is necessary to improve the Law on the Election of Governors, Regents and Mayors to regulate firmly and clearly to protect the constitutional rights of Pilkada participants and the community in general. In addition, the General Election Organizers should carry out their duties in accordance with laws and regulations by prioritizing integrity and maintaining morality and avoiding the interests of political elites.

References

- Bagir Manan dan Kuntana Magnar . (1996). *Mewujudkan Kedaulatan Rakyat melalui Pemilu dalam Ketatanegaraan Indonesia dalam konteks Demokrasi Pancasila*, Gaya Media Pratama, Jakarta.
- Bagir Manan. (1999). *Lembaga Kepresidenan*, Pusat Studi Hukum Islam Indonesia dan Gama Media, Yogyakarta.
- Bondan Guanawa. (2000). *Apa itu Demokrasi*, Pustaka Sinar Harapan, Jakarta.
- Haedar Natshir. (1999). *Gagasan dan Gelombang Baru Demokrasi*, Pustaka Pelajar, Jakarta.
- I Made Aryan Utama. (2007). *Hukum Lingkungan, Sistem Hukum Perizinan Berwawasan Lingkungan Untuk Pembangunan Berkelanjutan* Pustaka Sutra, Bandung.
- Ismail Suny. (2007). *Pergeseran Kekuasaan Eksekutif*, Aksara Baru, Jakarta.
- Jimly Asshiddiqie, *Pokok-Pokok Hukum Tata Negara Indonesia*, BIP Kelompok Gramedia, Jakarta.
- Jimly Asshiddiqie. (2010). *Perkembangan dan Konsolidasi Lembaga Negara Pasca Reformasi*, Sinar Grafika, Jakarta.
- Koentjoro Poerbopranoto. (1987). *Sistem Pemerintahan Demokrasi*, Eresco, Bandung.
- Leonardo Morlino, *What is a Good Democracy, Theory and Empirical Analysis*, Paper disampaikan pada *the Conference on the European Union, Nation State and the Quality of Democracy*, Lessons from Southern Europe, University of California, Berkeley, 2002.

- Philipus M. Hadjon. (1992). *Lembaga tertinggi Negara dan Lembaga-lembaga Tinggi Negara Menurut UUD 1945*, Bina Ilmu, Surabaya.
- Saleh Adiwinata. (1983), Boerhanoedin St. Batoeh., Kamus Istilah Belanda_Indonesia, Fockeme Andreal Belanda, Binacipta, Jakarta.
- Sumali. (2003). *Reduksi Kekuasaan Eksekutif Dibidang Peraturan Pengganti Undang-Undang* (Perpu), Universitas Muhammadiyah Malang, Malang.
- Ridwan H R, (2006). Hukum Administrasi Negara, PT Raja Grafindo Persada, Jakarta.
- Putusan Sidang Perkara Kode Etik Nomor 140-PKE-DKPP/IX/2020
- Putusan Sidang Perkara Kode Etik Nomor 146-PKE-DKPP/IX/2020
- Putusan Sidang Perkara Kode Etik Nomor Nomor 162-PKE-DKPP/XI/2
- Putusan Mahkamah Konstitusi NOMOR 132/PHP.BUP-XIX/2021