

**THE LEGAL CONSEQUENCES OF SINGLE CANDIDATE IN
THE REGIONAL ELECTION**

PUBLICATION PAPER



**This undergraduate thesis is submitted as one of the requirements to obtain
the degree of Bachelor of Laws
at the Faculty of Law Universitas Muhammadiyah Yogyakarta**

Name : Mega Purnama Humaira
Student Number : 20140610458
Faculty : Law
Major : International Program for Law and Sharia
Field of Study : Constitutional Law

FACULTY OF LAW
UNIVERSITAS MUHAMMADIYAH YOGYAKARTA
2018

APPROVAL PAGE

**THE LEGAL CONSEQUENCES OF THE SINGLE CANDIDATE IN THE
REGIONAL ELECTION**

Written By:

Mega Purnama Humaira
20140610458

Advisor 1

Advisor 2

Nanik Prasetyoningsih, S.H., MH
NIK. 19740415200004 153 043

Iwan Satriawan, S.H.MCL., Ph.D
NIK. 19700706199904 153 039

Endorsed by:

Dean of Faculty of Law

Universitas Muhammadiyah Yogyakarta



Dr. Trisno Raharjo, SH., M.Hum
NIK. 19710409199702 153 028

THE LEGAL CONSEQUENCES OF SINGLE CANDIDATE IN THE REGIONAL ELECTION

By Mega Purnama Humaira

International Program for Law and Sharia, Faculty of Law, Universitas
Muhammadiyah Yogyakarta, Brawijaya Street, Tamantirto, Kasihan, Bantul,
Yogyakarta, Indonesia 55183

Email: megapurnamahumaira@gmail.com

ABSTRACT

The purpose of this research is to analyse what the legal basis of single candidate according to the law and how the legal consequences of the single candidate are in local election. This research is normative legal research with descriptive qualitative method. The results of research show that the legal basis of single candidate is based on Decision of Constitutional Court Number 100/PUU-XIII/2015 which approved a single candidate' to join the elections and that simply by giving the people the choice to "vote or disagree". The regulation regarding single candidate in regional head election, in the case of Blitar (East Java), Timor Tengah Utara (East Nusa Tenggara), and Tasikmalaya (West Java). The legal consequence of single candidate in local election is still implemented. The holding of elections is delayed as a consequence of the people who choose the option "disagree" or prefer "empty boxes". In case single candidate of the 2015 regional election the winner is single candidate pair. In case single candidate of the 2018 regional election, any area that the winner is empty box. This research proposes some recommendations. First, political parties need to carry out a better recruitment and training of cadres which are able to prepare good cadres for political contestation in modern democracy. The political parties also need to establish a better mechanism for determining candidates which are carried out transparently, accountably with the involvement of cadres at the most root level. Second, the DPR and President have to consider lowering the requirements for nomination and qualification for independent candidates (individuals) who wish to nominate themselves and compete in the election contestation.

Keywords: General Election, Simultaneous Regional Election, Single Candidate.

1. INTRODUCTION

General election is a logical consequence of the principle of sovereignty of the people (democracy) in the life of nation and state.¹ In the implementation of the General Election, it is conducted directly, publicly, freely, secretly, honestly and fairly within the Unitary State of the Republic of Indonesia. In the study of political science, the system of election is defined as a set of methods or an approach with procedural mechanisms for citizens to exercise their right to vote.² There are three general election in Indonesia namely, legislative election, general election of regional head and presidential election. The function of regional head election is to select regional head in a region that has its own regional autonomy. Regional autonomy is the right, authority, and obligation of regional autonomy to regulate and manage their own government affairs and interest of citizen in the Unitary State of the Republic of Indonesia.³

The regional head election is democratic agenda to elect head of region mandated by the 1945 Constitution of the Republic of Indonesia, based on Article 18 paragraph (4), the implementation regional heads election are

¹ Putera Astomo, 2014, *Hukum Tata Negara Teori dan Praktik*, Yogyakarta, Thafa Media, p, 121.

² Jimly Asshiddiqie, 2003, *Menegakkan Etika Penyelenggara Pemilu*, RajaGrafindo, Jakarta, p. 1.

³ Article 1 paragraph 6 Law Number 23 of 2014 on Regional Government.

carried out democratically.⁴ The implementation of regional elections is the correction of democratic system which is not a direct election in the previous era, where the regional head and vice regional head are elected by the DPRD, into a democracy that is rooted in the choice of the people.⁵ As the implementation of the General Election of Regional Heads is already valid in Law Number 8 of 2015 on Amendment to Law Number 1 of 2015 on Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 on the Election of Governors, Regents and Mayors into the Act. In the implementation of regional elections, there is some polemic which occurred in the implementation such as any phenomena single candidate. The phenomena of single candidate have occurred in 2015, where at the time there are four areas that did not have additional candidate. The three are Blitar (East Java), Tasikmalaya (West Java), North Central Timor (East Nusa Tenggara).⁶

Meanwhile, a single candidate is not regulated in Law No. 8 of 2015 on General Head Election because the law is followed by at least two pairs of candidate. This is possible due to the absence of candidates who have great potential power to compete with such a single candidate. The existence of

⁴ Maryam Nur Hidayati, 2016, "Problematika Hukum Calon Tunggal dalam Pemilihan Kepala Daerah Serentak Tahun 2015", Jurnal Lex Renaissance, Vol. 1 No. 1 Januari. p. 38.

⁵ Mustafa Lutfi, 2010, *Hukum Sengketa Pemilukada di Indonesia Gagasan Perluasan Kewenangan Konstitusional Mahkamah Konstitusi*, Cetakan Pertama, UII Press, Yogyakarta, p. 130.

⁶ KPU Republik Indonesia, 2015, "Suara Komisi Pemilihan Umum Menjaga Hak Rakyat Dalam Pemilu", edisi IV, Available in https://kpu.go.id/koleksi_gambar/Revisi+Final+Majalah+Suara+KPU+Edisi+4.compressed.pdf Accessed on Sunday, November, 13, 2017, 12.00 pm. P. 5.

Rechtsvacuum (kekosongan hukum) with weak regulation on elections. The phenomena of single candidate are extreme form of the least number of candidates for election. It happens because there are several factors that create of single candidate in local election as follows:

- a. The requirements of candidate pairs from a political party or coalition of political parties are also exacerbated by the requirements compared to the previous election. A candidate for a regional head may be nominated by a political party or coalition of political parties with at least 20 percent of the DPRD seats or 25 percent of the vote in the legislative elections. The simultaneous election also only takes place in one round. This resulted in that many advanced candidates must really count about win or lose;
 - b. Decision of Constitutional Court that requires House of Representative (*Dewan Perwakilan Rakyat*) here in after DPR or DPRD members to resign from their positions when elected for candidates for regional head. This factor also makes the number of candidates smaller. The third factor also related to the weakness of party cadre and the lack of party policy orientation;
 - c. The presence of powerful incumbents as participants and most political parties support one candidate;
 - d. There is has specific local political dynamic in the region concerned.⁷
- and

⁷ Iza Rumesten, 2016, "Fenomena Calon Tunggal dalam Pesta Demokrasi", *Jurnal Konstitusi*, Vol. 13 No 1. p. 80.

- e. Existing political parties do not want to run its function in conducting political recruitment.⁸

Here are some of the factors that the authors make of a single candidate in some areas of the 2015 general election. Whereas in fact the people who have the capacity to lead their region may nominate at these elections simultaneously, because every citizen who has the right to vote also has the right to be elected and has equal opportunity in government which has been guaranteed by the 1945 Constitution Article 28D paragraph (3). This single candidate pair has also allowed by the Constitutional Court, where the Constitutional Court has issued a decision related to a single candidate numbered 100/PUU-XIII/2015 proposed by Effendi Gazali.

As the realization, there is a problem regarding the absence of the candidates or can be called as the single candidate only appear in the election. The absence of the regulation makes polemic in society in how the election can be new without no more than single candidate.

2. RESEARCH METHODS

2.1 Type of Research

The research was conducted under normative legal research. Normative legal research is the legal research based on library study. It means that the research aims to know the regulation regarding single candidate and legal consequences of single candidate in regional head

⁸ Nur Rohim Yunus, 2017, "Calon Tunggal Sebagai Wujud Disfungsi Partai Politik", Jurnal ADALAH: Buletin Hukum&Keadilan, ISSN: 2338 4638, Volume 1 Nomor 4a, p. 32.

election, in the case of Blitar (East Java), and Tasikmalaya (West Java). Furthermore, the researcher used statute to elaborate specific statute such as the 1945 Constitution and Constitutional Court Decision No. 100/PUU-XIII/2015.

2.2 Type of Data

The data used in this research is secondary data. The secondary data consist of primary legal material, secondary legal material, and tertiary legal material.¹³

2.3 Data Collection

The method of collecting data in this research was done through library research by study literature. This method collected data from reading, analyzing, and trying to make conclusion from related the main problem as the object of this research.

2.4 Data Analysis

The data were analyzed systematically through descriptive qualitative. It means that the researcher analyzed related regulation, especially relating the legal consequences of single candidate in regional head election. The facts were connected with the principle of law, conventions, and other related regulations.

3. DISCUSSION

A. The Legal Basis of Single Candidate

The provision of Law Number 8 of 2015, that the law requires the regional heads election held simultaneously in 2015 are required to

have at least two candidate pairs in each region. It is closely related to that general election and local elections is a political contest of several options proposed candidates. The provisions are regulated in Article 51 paragraph (2) and Article 52 paragraph (2) of Law Number 8 of 2015.⁹

KPU also issued Regulation Number 12 of 2015 on Amendment to Regulation of the General Election Commission Number 9 of 2015 on the Candidate of Governor and Vice Governor, Regent and Vice Regent, and/or Mayor and Vice Mayor. The regulation in KPU is stated that in the event until the end of the Candidate Pairs registration period there are only 1 (one) Candidate Pair or no Candidate Pairs registering, Provincial KPU/KIP Aceh or KPU/Regency/City extend the registration period of the Candidate Pair for a maximum of 3 (three) days. In the event that until the expiration of the registration period there is only 1 (one) Candidate Pair or no Candidate Pairs registered as referred to in paragraph (1) , Provincial KPU/KIP Aceh or KPU/KIP Regency/City stipulates the decision of the postponement of all stages and the Elections shall be held in subsequent Selection.¹⁰ So it is clear that each region must have a candidate of regional head of at least two candidate pairs. However, the rules in the Law on Regional Head Election do not provide a position for regions that have only one candidate pairs of regional heads.

⁹ Article 51 paragraph (2) and Article 52 paragraph (2) of Law No. 8 of 2015 on Pemilihan Gubernur, Bupati dan Walikota

¹⁰ Article 89 Regulation of KPU Number 12 of 2015 on Pencalonan Pemilihan Gubernur dan Wakil Gubernur, Bupati dan wakil Bupati, Walikota dan Wakil Wali Kota.

Regarding local elections in areas with only one candidate, Coordinating Minister for Political, Legal and Security Affairs, Tedjo Edhi Purdijatno, said there are three options as discussed with President Joko Widodo. First, the option is to issue a Government regulation in lieu of law (hereafter Perppu) so that the elections in the 7 regions can still be implemented even though only followed by one candidate pair. Second, the option is to extend the registration period even though the KPU has extended the registration period until 3 August 2015 after it was closed on 28 July 2013. Third, it is to keep conducting elections according to KPU Regulation No. 12 of 2015. This ultimately leads to postponed in regional elections that have only a single candidate until 2017.¹¹

Postponed the elections for regions with only single candidates is not the best option. The choice is very unfair to voters as well as for candidates who are ready to register. Voters lose their right to correct local leadership in the five-year elections cycle. While for a single candidate who has signed up to follow all the existing procedures is definitely the rights was violeted, and this will be very detrimental for a single candidate. Because if postponed a single candidate must do everything from the first step again. The postponement of the election of regional heads for single candidates in 2015 is considered to cause a

¹¹ Aryojati Ardipandanto, “Calon Tunggal dalam Pilkada Serentak 2015”, Pusat Pengkajian, Pengolahan Data dan Informasi (P3DI) Sekretariat Jenderal DPR RI, ISSN 2088-2351, Vol. VII, No. 15/I/P3DI/Agustus/2015.

loss of constitutional rights for citizens. The loss of constitutional rights was felt by Effendi Ghazali. Finally, the parties who feel aggrieved of their rights filed a judicial review of the Election Law to the MK to find a solution to the problem. The party who submits the material test about the minimum requirements of candidate pairs in the election as stipulated in Law Number 8 of 2015 on the amendment of Law Number 1 of 2015 on the Election of Governor, Regent, filed a judicial review against Law Number 8 of 2015 relates to the existence of a single candidate which may cause delays in the election. The Constitutional Court in its ruling gave its approval for a referendum on the mechanism of voting for a single candidate for the election of the regional head through the Constitutional Court Decision Number 100/PUU-XIII/2015.

The reason of the petition, the applicant argued that they are Indonesian citizens whose constitutional right by the application of legal norms petitioned the following arguments:¹²

- a. Provisions requiring the existence of at least two pairs of candidates for the regional head to be elected to the election of regional heads, as regulated in Law Number 8 of 2015 which later became the legal basis for the establishment of KPU regulation Number 12 of 2015, has impaired the constitutional rights of the applicant for a fair legal certainty as guaranteed by Article 28D

¹² Decision of Constitutional Court Number 100/PUU/XIII-2015, p. 37-38.

Paragraph (1) of the 1945 Constitution because there is no certainty that the requirements will always be fulfilled.

- b. The provisions of the Act petitioned for the potential testing result in discrimination, since voters living in areas with only one pair of candidates may not vote as voters in areas with more candidate pairs.
- c. The provisions of the Act petitioned for review also potentially because of losses for voters who have only one pair of candidates for regional head and deputy head of region by the possibility of multiple delays until the conditions are met at least two pairs of candidates for regional head and deputy regional head.
- d. The provisions of the Act petitioned for adjudication do not provide legal certainty and discrimination as well as the potential for slowing and the existence of development discontinuities.

The norm of Law Number 8 of 2015, the applicant submits several articles that are tested, including Article 49 paragraph (8) and (9), Article 50 paragraph (8) and (9), Article 51 paragraph (2), Article 52 paragraph (2) and Article 54 paragraph (4), paragraph (5), paragraph (6) of Law Number 8 of 2015. If summarized the arguments of the petitioner's petition are centered on the issue of disruption or even the election of the regional head and vice regional head of the region as scheduled to be halted by the provisions of the norms of the Act

petitioned for a review requiring at least two pairs of candidates for regional head and vice regional head.

The Constitutional Court granted part of the petition for judicial review of Law Number 8 of 2015 (Election Law) petitioned by Academician Effendi Gazali. In this decision, the Court declared the elections were only followed by one candidate for regional head and deputy regional head can be implemented if it has been cultivated in earnest fulfillment of the requirements of at least two candidates. To that end, Regional Head Election is no longer solely dependent on the necessity of at least two pairs of candidates for regional head and candidate for deputy regional head. Therefore, according to the Court, the election which was postponed until the next election only because the unfulfilled requirement of at least two candidate pairs is contradictory to the 1945 Constitution. In order to guarantee the fulfillment of the constitutional rights of the citizens, the election of the Regional Head must be carried out even though there is only one pair of candidates for the regional head and the candidate for the deputy head of the regions.¹³

The Constitutional Court ruling states that, "Contrary to the spirit of the 1945 Constitution if the Regional Head Election is not held and postponed until the next election because it impairs the

¹³ Mahkamah Konstitusi, "Referendum Bagi Calon Tunggal pada Pilkada", 2015, <http://www.mahkamahkonstitusi.go.id/index.php?page=web.Berita&id=12140#.Wr5NEdRubIU> Accessed on Monday, April, 02, 2018, 12.29 am.

constitutional rights of the citizens in this case the right to be elected and voted, simply because the most unfulfilled terms few pairs of candidates for regional head and candidate for vice head of region even though it has been done in earnest ". Although according to the decision of the Constitutional Court it is explained that simply by giving the people the choice to vote or disagree, if the people "Agree" to choose the candidate pair then the intended candidate pair as the regional head and vice regional head of the elected area. Conversely, if it turns out the popular vote more "Disagree" then in such circumstances elections are postponed until the next Regional Head Election.

According to Suhartoyo, the election through the "agree" and "disagree" columns aims to grant people the right to vote for their own regional head candidates. As the holder of the highest sovereignty in democracy, the public is given the right to vote, including to elect to postpone the election. If the one who chooses the column "agrees" more, then the single candidate is designated as the regional head. However, if more people choose to "disagree", the implementation of the regional election will be postponed until the election in the next period. Such postponed are not inconsistent with the constitution,

because it is the people who decide the postponement with a disagreement to a single candidate.¹⁴

According to Perludem Executive Director, Titi Angraini, considers the Court's judgment that single candidate election by mechanism agree or disagree can be a direct correction on the leadership of single candidate. She considered that the Court's decision is very appropriate because it accommodates the principle of voting by involving the community in the election. The choice of agreeing or disagreeing is actually the same as the conception of an empty bucket or a blank column.¹⁵ After the Constitutional Court decision, there must be clear technical rules and massive socialization related to this new mechanism. Therefore, the mechanism of “agree or disagree” is new in the electoral system in Indonesia.

In some countries that have long practiced elections, such as the United States, Canada, Britain, India, Malaysia, and the Philippines, single-candidate issues are not new. They already have their own mechanisms that are legitimized in the legislation to address a single candidate. In the practice of statehood in America, the candidate is directly authorized as a winner or known as uncontested election.

¹⁴Abba Gabrillin, “MK: Calon Tunggal dipilih Melalui Kolom Setuju dan Tidak Setuju”, 2015, Available at <https://nasional.kompas.com/read/2015/09/29/15201091/MK.Calon.Tunggal.Dipilih.Melalui.Kolom.Setuju.dan.Tidak.Setuju>. Accessed on Sunday, April, 01, 2018, 10.58 pm.

¹⁵ASH, “Pasangan Calon Tunal Bisa Ikut Pilkada”, 2015, <http://www.hukumonline.com/berita/baca/lt560a42cc46904/pasangan-calon-tunggal-bisa-ikut-pilkada> Accessed on Sunday, April, 01, 2018, 11.13 pm.

Whereas in the practice of state administration in Canada, single candidates directly acclamation become elected candidates.¹⁶

The KPU makes the rules contained in the KPU Regulation Number 13 of 2018 on Amendments to the Election Commission Regulation Number 14 of 2015 on the Election of Governors and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy Mayors with One Candidate Pair. The rule was based on the determination of the Constitutional Court ruling which stated that a single candidate could take part in the general election. This also includes if the empty ballot box has more votes than the single candidate pair in the local election.

The regional head election has been held in December 2015 well although there are still problems in the implementation and dispute one of them is, the lack of election participants is evidenced by in some areas there is only one single candidate. Although in the end the Constitutional Court allows the election of Governor and Vice Governor, Regent and Deputy Regent, and Mayor and Deputy Mayor, it is still necessary to consider the concept of avoiding a single candidate.

B. The Legal Consequences of the Single Candidate in the Regional Election

1. Election of Single Candidate

The phenomenon of a single candidate occurred in the elections in 2015, which make the KPU as the organizer of the

¹⁶ Iza Rumesten. *Op.cit.* p. 83.

election confused about the phenomenon of this single candidate Law No. 8 of 2015 on the Regional Head Election is the basis for the implementation of the elections that has not been regulated on this single candidate. Single candidates are dangerous to democracy and may assume the absence of competition in the election of regional leaders. In fact, the more competing candidates the better the quality of democracy and the people who have the ability to lead their region can nominate at the same elections, because every citizen who has the right to vote also has the right to be elected and has equal opportunity in government which has been assured by 1945 Constitution Article 28D paragraph (3).

Registration of candidate of regional heads and deputy heads of regions was held on July 26-28, 2015. Until the deadline of registration, there are 12 regions that have a single candidate and one region has no candidate at all. The 12 regions with single candidate are Blitar, Purbalingga, Tasikmalaya, South Minahasa, North Central Timor, Serang, Asahan, Pacitan, Arfak Mountains, Surabaya City, Mataram City and Samarinda City. While one area that has no candidate is East Bolaang Mongondow Regency. The KPU open the registration renewal on August 1-3, 2015. Of the 13 formerly prospective regions, six regions have had more than one candidate pair of Asahan (North Sumatera), Serang (Banten),

Purbalingga (Central Java), Arfak Mountains (West Papua), South Minahasa Regency and East Bolaang Mongondow Regency (North Sulawesi). Thus the remaining seven regions with the single candidate.¹⁷

The KPU would open the second phase of registration on 9-11 August 2015 based on the recommendation of the Election Supervisory Board (Badan Pengawas Pemilu). During the second phase of extension, there were four out of seven regions that experienced an increase in the number of candidate pairs, namely Pacitan (East Java), Surabaya (East Java), Mataram City, and Samarinda (East Kalimantan). While the three regions of Blitar, Tasikmalaya, and Timor Tengah Utara (NTT) municipalities, until the registration extension closes on Tuesday afternoon August 11, 2015, there were no additional candidates.

Based on Bawaslu's recommendation, the KPU plenary meeting decided to extend the registration period. Following up the matter, the KPU issued Circular Letter Number 449/KPU/VIII/2015 addressed to the regional KPU in the seven regions. The contents are granted registration eligibility for election commencing from 1-3 August 2015. However, on the last day of the registration of election candidates in 2015, there were no additional candidates. The first extension of the stages left

¹⁷ KPU Republik Indonesia, *Op.cit.* p. 6.

seven areas that had a single candidate. The seven areas include Tasikmalaya Regency, Surabaya City, Blitar Regency, Pacitan Regency, Mataram City, North Central Timor District, and Samarinda City. On the rise of political tension to issue Government Regulation in Lieu of Law (Perppu), President Joko Widodo discussed the issue of a single candidate and ultimately selected the option to extend the registration of the second phase.¹⁸

The second phase extension which took place on August 9 to 11, 2015 still leaves the only candidate regions of Tasikmalaya, Blitar, Mataram and North Central Timor. The extension of registration is due to the election legal framework requiring the election of election followed by at least two candidate pairs. Following up on this, the KPU then issued the KPU Regulation Number 12 of 2015 that in the event until the expiration of the registration period there is only one candidate pair or no candidate pairs to register, the local KPU shall determine the decision of the postponement of all stages and the general head election shall be held simultaneously in 2017.¹⁹

¹⁸M. Yasin Al Arif, 2016, "Politik Hukum Calon Tunggal dalam Putusan Mahkamah Konstitusi dan Implikasinya Terhadap Sistem Pilkada Serentak", *Journal Yuridis*, Vol.3 Available at http://www.academia.edu/31814735/Politik_Hukum_Calon_Tunggal_dalam_Putusan_Mahkamah_Konstitusi_dan_Implikasinya_Terhadap_Sistem_Pilkada_Serentak. Accessed on Friday, May, 11, 2018. 10.24 pm. p. 123.

¹⁹ Iza Rumesten, 2016, "Fenomena Calon Tunggal dalam Pesta Demokrasi", *Jurnal Konstitusi*, volume 13 number 1. p. 75.

Postponement of the elections due to only one candidate pairing would undermine the constitutional rights of citizens, namely the right to vote and be elected. The existence of single candidate pairs cannot be used as an excuse to postpone the election. The KPU must establish a single candidate pair after a three day delay period is exceeded, but there is only one candidate pair. The decision of the Constitutional Court Number 100/PUU-XIII/2015 opened the blockage of democracy, the implementation of regional head election in some areas which were originally postponed because only followed by one candidate pair. The Constitutional Court authorizes a single candidate to participate in the elections, in this case the choice of "agree or disagree".²⁰ The choice is considered more democratic than the election postponement. If it turns out the popular vote is more "Agree" then the candidate pair is determined as the regional head and deputy head of the elected area. Conversely, if it turns out the voice of the people more choose "Disagree" then the election is postponed until the next elections in unison.

The KPU makes the rules contained in the KPU Regulation Number 13 of 2018 on Amendments to the Election Commission Regulation Number 14 of 2015 on the Election of Governors and Deputy Governors, Regents and Deputy Regents,

²⁰ Nur Rosihin Ana, "Jangan Tunda Pilkada", *Konstitusi*, No.104 Oktober 2015, p. 3.

and/or Mayors and Deputy Mayors with One Candidate Pair. In the KPU regulation, it was drafted on how to carry out elections with only one candidate pair in accordance with the Act. In Article 14 paragraph (1) reads: Means used to vote in the Election of 1 (one) Candidate Pair use a ballot containing 2 (two) columns consisting of 1 (one) column containing photos of Candidate Pairs and 1 (one) blank column that is not pictured.²¹ And Article 18 reads: Voting for the election of 1 (one) Candidate Pair shall be conducted by voting 1 (one) time in the column containing photos of Candidate Pairs or blank images that are not pictured.²² A single candidate is considered to win votes in his area when the single candidate pair gets more than 50% of the valid votes. A single candidate is considered to win votes in his area when the single candidate pair gets more than 50% of the valid votes. That is, there must be more than half the number of people who voted for it compared to the blank column, this is based on Law No. 10 of 2016 article 54D point 1.

2. The Winner and the Loser of Single Candidate in some Local Election

The House of Representatives has ratified Law Number 10 of 2016 on the Second Amendment to Law Number 1 of 2015 on

²¹ Article 14 Decision General Election Commission Number 13 of 2018 on Amendments to the Election Commission Regulation Number 14 of 2015 on the Election of Governors and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy Mayors with One Candidate Pair.

²² *Ibid.*

the Establishment of Government Regulations in Lieu of Law Number 1 of 2014 on Election of Governors, Regents and Mayors. In this case it means that the implementation of the elections is still being carried out, with this legal consequence in the single candidate, namely the continuing implementation of the post-conflict local election even though there is only one candidate pair. Because it has been determined by the decision of the Constitutional Court Number 100 / PUU-XIII / 2015 and the Law, without being prevented there must be 2 pairs of candidates.

Related to the implementation of the elections in 2015 with only one pair of regional head candidates. One example in Kabupaten Tasikmalaya West Java in the face of regional head election in single candidate is faced with the confusion of the community in choosing. They can not determine which one is good with only one candidate option. However, some residents claimed to support "agree" in his ballot paper rather than having no leader. They assume that than the area is not maintained, it is better to choose only there. In this case, Tasikmalaya district residents are faced with a difficult choice in the regional head elections because only a single candidate is offered. They are only

given the choice of agree or disagree with the candidate.²³ Based on the result of quick counting, the result of vote Agree on Regional Head Election single candidate of Tasikmalaya Regency is 500,513 votes or 67,35 percent. According to the head of Tasikmalaya Regional Election Commission, Deden Nurul Hidayat mentioned that almost half of the voters in Tasikmalaya district were golput, only 60,19 percent of the people who decided to exercise their right to vote.²⁴

Another problem that arise in the implementation of the Election of Single Candidates in Blitar Regency, East Java was the implementation of the election of regional heads in Blitar regency followed by small number of votes, but by no means deserted from the protests. Non-governmental organizations Forum Blitar accused Blitar KPU of deliberately directing voters to approve a single candidate and not socialize how to refuse for those who disagree.²⁵ The results of the vote count, according to the Head of Blitar Regency Commissioner Imron Nafifah stated that the single candidate pair received a vote "agree" to 427,076 voters or 84.90 percent, while those who voted "disagree" only

²³ Heyder A ffan, "Polemik Pilkada calon tunggal di Kabupaten Tasikmalaya", 2015, Available at https://www.bbc.com/indonesia/berita_indonesia/2015/12/151204_indonesia_pilkada_calon_tunggal, Accessed on Thursday, July 7, 2018, 03:40 pm.

²⁴ <https://pilkada.tempo.co/read/726398/calon-tunggal-tasikmalaya-menang-kpud-belum-final>, Accessed on Thursday, 7 July 2018, 03:55 pm.

²⁵ <https://nasional.tempo.co/read/715260/calon-tunggal-pilkada-blitar-kpu-dituding-tak-adil>, Accessed on Sunday, 23 May 2018, 04:53 pm.

15,10 percent or 75,943 voters, resulting in total voting rights were 543,770 voters.²⁶

The phenomenon of single candidates in 2018 held in June occurred again. Where there are 13 regions that have a single candidate, namely, Prabumulih City, South Sumatra, Lebak Banten Regency, Tangerang Banten Regency, Tangerang City Banten, Pasuruan Regency, East Java, Minahasa Regency, Southeast Sulawesi, Tapin Regency, South Kalimantan, Puncak Papua Regency, Mamasa District, Mamasa District, West Sulawesi, Papua Jayawijaya Regency, North Padang Lawas Regency, North Sumatra, Makassar City, South Sulawesi.²⁷

A single candidate is considered to win votes in his area when he and his partner get more than 50% of the valid votes.²⁸ Its means, there must be more than half the number of people who chose it compared to the empty column.²⁹ However, if it turns out that the empty column that gets more votes than the votes for the candidate pairs, the Provincial or Regency/City KPU stipulates that the re-election on the next simultaneous election held in the

²⁶ <https://jatim.antaranews.com/berita/169741/pasangan-pilkada-calon-tunggal-menang-8490-persen>, Accessed on Sunday, 7 July 2018, 04:10 pm.

²⁷ Yunizafira Putri AW, "13 Daerah di Pastikan Gelar Pilkada dengan Calon Tunggal", 2018, Available at <https://www.liputan6.com/news/read/3523237/13-daerah-dipastikan-gelar-pilkada-dengan-calon-tunggal> Accessed on Monday, 18 November 2018, 10:00 pm.

²⁸ Ikhwan Hastanto, "Yang Terjadi Jika Calon Pilkada Hanya Satu Pasang Melawan Kotak Kosong dan Kotaknya Menang", 2018, Available at <https://mojok.co/mih/esai/yang-terjadi-jika-calon-pilkada-hanya-satu-pasang-melawan-kotak-kosong-dan-kotaknya-menang/> Accessed on Monday, 18 November 2018, 10:17 pm.

²⁹ *Ibid.*

following year is based on Article 54D 10 of 2016. And for candidate pairs, they can still nominate again at the next simultaneous election.

The case example in the 2018 simultaneous local election which had a single candidate in this general election was the city of Makassar with candidate pairs namely Munafri Arifudin-Rachmatika Dewi who was defeated by an empty box. In the recapitulation of votes, empty boxes won in 13 Subdistricts in Makassar City, while Munafri Arifudin-Rachmatika Dewi only won in 2 Districts.³⁰ The empty box gets 300,795 votes, while the single candidate gets 264,245 votes.³¹ The total vote acquisition of the Mayor and Deputy Mayor of Makassar reached 565,040 votes. The vote between the empty box and the single candidate was 36,898 votes.³² The loss of the candidate pair Munafri Arifudin-Rachmatika then the election of the mayor of Makassar will be postponed until the nearest election time, or in 2020. This has been based on Law and Regulation of KPU No. 13 of 2018. In the regulation mentioned, a single candidate must obtain more than 50 percent of the votes. If it does not arrive, the elections are postponed until the closest election, while the candidates who are

³⁰ Hendra Cipto, "KPU Tetapkan Kotak Kosong Sebagai Pemenang Pilkada Makassar 2018", 2018, Available at <https://regional.kompas.com/read/2018/07/07/06225871/kpu-tetapkan-kotak-kosong-sebagai-pemenang-pilkada-makassar-2018>, Accessed on Sunday, November 18, 2018, 11:34 pm.

³¹ *Ibid.*

³² *Ibid.*

not elected may register again.³³ With the postponement of the regional election in Makassar city, the leadership in the temporary city of Makassar will be taken over by the Mayor (Pj) appointed by the Ministry of Home Affairs. The Acting Mayor will be on duty until the next local election is held.³⁴

Regional head election organizers with only one pair of candidates have been concerned and various parties in the region related to the level of citizen participation in using the right to vote, because the level of citizen participation in using the right to vote can be used as one indicator of the running of democracy in Indonesia. In fact, however, the existence of a single candidate in the local elections raises concerns of reducing the level of citizen participation in using voting rights. According to Deputy Secretary General PPP Achmad Baidowi, the potential for declining voter participation due to single candidates in the regional head election indeed needs to be scrutinized, because it will be a bad precedent for democracy which is essentially the involvement of the wider community.³⁵

4. CONCLUSION AND RECOMMENDATIONS

4.1 Conclusion

³³ Himas Puspito Putra, "Kolom Kosong Unggul di Pilwalkot, Ini Konsekuensinya", 2018, Available at <https://www.inews.id/daerah/sulsel/163593/kolom-kosong-unggul-di-pilwalkot-makassar-ini-konsekuensinya> Accessed on Monday, 19 November 2018, 12:30 am.

³⁴ *Ibid.*

³⁵ JPNN.com, "Calon Tunggal di Pilkada Berpotensi Menurunkan Partisipasi Pemilih", <https://pilkada.jpnn.com/news/calon-tunggal-di-pilkada-berpotensi-menurunkan-partisipasi-pemilih> Accessed on Thursday, 7 July 2018, 02:53 pm.

Based on the previous discussion in Chapter IV, it arrives at conclusion that:

1. The legal basis of single candidate is based on Decision of Constitutional Court Number 100/PUU-XIII/2015 and PKPU Number 13 of 2018 on Amendments to the Election Commission Regulation Number 14 of 2015 on the Election of Governors and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy Mayors with One Candidate Pair. The Decision ratifies a single candidate's decision to attend the elections and provides approval for a referendum on the mechanism of voting for a single candidate for the election of the regional head. In the decision of the Constitutional Court, it is explained that simply by giving the people the choice to "agree or disagree". The regulation regarding single candidate in regional head election, in the case of Blitar (East Java), Timor Tengah Utara (East Nusa Tenggara), and Tasikmalaya (West Java).
2. The legal consequence of single candidate in local election is still implemented. The Constitutional Court Number 100 / PUU XIII / 2015 decision ratifies a single candidate to take part in the elections, in this case the choice form of "agree or disagree". The choice is considered more democratic than the delay in the elections. If it turns out that the votes of the people prefer "Agree" then the candidate pair is designated as the regional head and the

elected deputy regional head. Conversely, if it turns out that the votes of the people prefer "Disagree" then the election is postponed until the next simultaneous local election. The holding of elections is delayed as a consequence of the people who choose the option "disagree" or prefer "empty boxes". In case single candidate of the 2015 regional election the winner is single candidate pair. In case single candidate of the 2018 regional election, any area that the winner is empty box. The area is Makassar City, where single candidate defeated by empty box.

4.2 Recommendation.

Based on the problem that has been discussed in the previous paragraph, there are some recommendations which can be proposed as follows:

1. Political parties need to carry out recruitment and training functions of cadres which able to prepare good cadres for political contestation in modern democracy. The political parties also need to establish a better mechanism for determining candidates which carried out transparently, accountably with the involvement of cadres at the most root level.
2. The DPR and President have to consider lowering the requirements for nomination and qualification for independent candidates

(individuals) who wish to nominate themselves and compete in the election contestation.

REFERENCES

Books

Agus Riwanto, *Hukum Partai Politik dan Hukum Pemilu di Indonesia*, Thafa Media, Yogyakarta, 2016.

Bondan Gunawan, *Apa Itu Demokrasi*, Pustaka Sinar Harapan, Jakarta, 2000.

David Sitompul, Legitimasi Hukum dan Politik Calon Pasangan Tunggal dalam Pemilihan Umum Presiden dan Wakil Presiden di Indonesia, Thesis Faculty of Law Universities Gadjah Mada, 2015.

Dwanda Julisa Sistyawan, Penerapan Demokrasi Pancasila Terhadap Pemilihan Kepala Daerah Calon Tunggal (Studi Kasus Putusan MK No. 100/PUU-XIII/2015), Thesis, S2 Hukum Universitas Gadjah Mada, 2017.

Edwi, Proses Demokrasi di Lembaga Per masyarakatan Klas IIA Tanjung Pinang, Thesis Prodi Ilmu Pemerintahan Fakultas Ilmu

Sosial dan Ilmu Politik Universitas Maritim Raja Ali Haji
Tanjung Pinang, 2016.

Eko Wardani, Calon Tunggal Gerakan Mundur Partai Politik, *Majalah Suara Komisi Pemilihan Umum*, Edisi IV, Juli-Agustus, 2015.

Firmanza, *Persaingan, Legitimasi Kekuasaan dan Marketing Politik*, Yayasan Obor Indonesia, Jakarta, 2010.

Jimly Asshidiqie, *Menegakkan Etika Penyelenggara Pemilu*, Raja Grafindo, Jakarta, 2003.

Jimly Asshidiqie, *Pengantar Ilmu Hukum Tata Negara*, PT Raja Grafindo, Jakarta, 2006.

Khairul Fahmi, *Pemilihan Umum dan Kedaulatan Rakyat*, PT Raja Grafindo, Jakarta, 2011.

KPU Republik Indonesia, *Suara Komisi Pemilihan Umum, Menjaga Hak Rakyat Dalam Pemilu*, Edisi 4, 2015.

Mahfud MD, *Dasar dan Struktur Ketatanegaraan Indonesia*, PT Rineka Cipta, Jakarta, 2001.

Mexsasai Indra, *Dinamika Hukum Tata Negara Indonesia*, PT Rafika Aditama, Bandung, 2011.

Mustafa Lutfi, *Hukum Sengketa Pemilukada Di Indonesia Gagasan Perluasan Kewenangan Konstitusional Mahkamah Konstitusi*, Cetakan Pertama, UII Press, 2010.

Muhadam Labolo, Teguh Ilham, *Partai Politik dan Sistem Pemilihan Umum di Indonesia*, Jakarta, Rajawali Pers, 2017.

Ni'matul Huda, *Hukum Tata Negara Indonesia*, Rajawali Pers, Jakarta, 2016.

- Ni'matul Huda, *Ilmu Negara*, Rajawali Press, Jakarta, 2014.
- Nur Rosihin Ana, "Jangan Tunda Pilkada", *Konstitusi*, No.104 Oktober 2015.
- Pamudji, *Kepemimpinan Pemerintahan di Indonesia*, Bumi Aksara, Jakarta, 1995.
- Philip Quarles van Ufford, *Kepemimpinan Lokal dan Implementasi Program*, Jakarta, Gramedia, 1998.
- Putera Astomo, *Hukum Tata Negara Teori dan Praktek*, Thafa Media, Yogyakarta, 2014.
- Saleh, *Hukum Acara Sidang Etik Penyelenggara Pemilu*, Sinar Grafika, Jakarta Timur, 2017.
- Septi Nurwijayanti, Nanik Prasetyoningsih, *Politik Ketatanegaraan*, Laboratorium Hukum Universitas Muhammadiyah Yogyakarta, Yogyakarta, 2009.
- Septi Nurwijayanti, Titin Purwaningsih, *Desain Pemilihan Umum Nasional Serentak dalam Perspektif Hukum dan Politik*, Penelitian Hibah Bersaing Fakultas Hukum Universitas Muhammadiyah Yogyakarta, 2015.
- Soehino, *Bunga Rampai Hukum Tata Negara*, BPFE, Yogyakarta, 2011.
- Titik Triwulan, *Konstruksi Hukum Tata Negara Indonesia Pasca Amandemen UUD 1945*, Kencana, Jakarta, 2010.

Journal & Paper

- Aryojati Ardipandanto, *Calon Tunggal dalam Pilkada Serentak 2015*, Pusat Pengkajian, Pengolahan Data dan Informasi (P3DI) Sekretariat Jenderal DPR RI, ISSN 2088-2351, Vol. VII, No. 15/I/P3DI/Agustus/2015.

- Aminah, *Analisis Penerapan Sistem Proporsional dan Sistem Distrik dalam Pemilihan Umum untuk Penyederhanaan Sistem Partai di Indonesia Ditinjau dari Asas Negara Hukum*, Yustisia Vol. 1 No. 2, 2012.
- Didik Sukriono, Menggagas Sistem Pemilihan Umum di Indonesia, *Jurnal Mahkamah Konstitusi*, PKK Universitas Kanjuruhan Malang, Volume II Nomor 1, 2006.
- Iza Rumesten, Fenomena Calon Tunggal dalam Pesta Demokrasi, *Jurnal Konstitusi*, Volume 13 Number 1, 2016.
- M. Yasin Al Arif, 2016, "Politik Hukum Calon Tunggal dalam Putusan Mahkamah Konstitusi dan Implikasinya Terhadap Sistem Pilkada Serentak", *Journal Yuridis*, Vol.3 No. 2, 2016.
- Nopyandri, tahun, "Pemilihan Kepala Daerah yang Demokratis dalam Perspektif UUD 1945", *Jurnal Ilmu Hukum*, Fakultas Hukuk Universitas Negeri Riau, Volume 2 Nomor 2, 2011.
- Nur Rohim Yunus, "Calon Tunggal Sebagai Wujud Disfungsi Partai Politik", *Jurnal ADALAH: Buletin Hukum & Keadilan*, Volume 1 Nomor 4a, ISSN: 2338 4638, 2017.
- Maryam Nur Hidayati, "Problematika Hukum Calon Tunggal dalam Pemilihan Kepala Daerah Serentak Tahun 2015", *Jurnal Lex Renaissance*, Vol. 1 No. 1 Januari. 2016.
- R Nazriyah, Calon Tunggal dalam Pilkada Serentak Tahun 2015 terhadap Putusan Mahkamah Konstitusi No 100/PUU-XIII/2015, *Jurnal Konstitusi*, Volume 13 Number 2, 2016.
- Ria Casmani Arrsa, Pemilu Serentak dan Masa Depan Konsolidasi Demokrasi, *Jurnal Konstitusi*, Volume 11 Number 3, 2014.
- Triono, Menakar Efektivitas Pemilu Serentak 2019, *Jurnal Wacana Politik*, Volume 2 Number 2, 2017.

Legislation

1945 Constitutional of Republic Indonesia

Law Number 23 of 2014 on Regional Government

Law Number 7 of 2007 on General Election

Law Number 10 of 2016 on the Second Amendment to Law Number 1 of 2015 on the Establishment of Government Regulations in Lieu of Law Number 1 of 2014 on Election of Governors, Regents and Mayors

Regulation KPU Number 12 of 2015 on Candidate Election of Governor and Vice Governor, Regent and Vice Regent, Mayor and Vice Mayor

Regulation KPU Number 13 of 2018 on Amendments to the Election Commission Regulation Number 14 of 2015 on the Election of Governors and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy Mayors with One Candidate Pair.

Decision of Constitutional Court Number 100/PUU/XIII-2015

Websites

Abba Gabrillin, "MK:Calon Tunggal Ddipilih Melalui Kolom Setuju dan Tidak Setuju", 2015, <https://nasional.kompas.com/read/2015/09/29/15201091/MK.Calon.Tunggal.Dipilih>.

- [Melalui. Kolom. Setuju. dan. Tidak.Setuju.](#) Accessed on Sunday, April 1st, 2018, 10.58 pm.
- Anis Azizah, “Sistem Pemilihan Umum”, 2017, <https://www.kompasiana.com/anisazizah96/59a753fb159344519b0ea182/sistem-pemilihan-umum> Accessed on Friday, May 25, 2018, 11:55 am.
- ASH, “Pasangan Calon Tunggal Bisa Ikut Pilkada”, 2015, <http://www.hukumonline.com/berita/baca/lt560a42cc46904/pasangan-calon-tunggal-bisa-ikut-pilkada> Accessed on Sunday, April, 01, 2018, 11.13 pm.
- Asmaul Chusna, “Pasangan Pilkada Calon Tunggal Menang 84,90%”, 2015 <https://jatim.antaranews.com/berita/169741/pasangan-pilkada-calon-tunggal-menang-8490-persen>, Accessed on Sunday, 7 July 2018, 04:10 pm.
- Candra Nugraha, “Calon Tunggal Tasikmalaya Menang, KPUD Belum Final”, 2015, <https://pilkada.tempo.co/read/726398/calon-tunggal-tasikmalaya-menang-kpud-belum-final>, Accessed on Thursday, July 7, 2018, 03:55 pm.
- Heyder Affan, “Polemik Pilkada calon tunggal di Kabupaten Tasikmalaya”, 2015, Available at https://www.bbc.com/indonesia/berita_indonesia/2015/12/151204_indonesia_pilkada_calontunggal, Accessed on Thursday, July 7, 2018, 03:40 pm.
- Hendra Cipto, “KPU Tetapkan Kotak Kosong Sebagai Pemenang Pilkada Makassar 2018”, Available at <https://regional.kompas.com/read/2018/07/07/06225871/kpu-tetapkan-kotak-kosong-sebagai-pemenang-pilkada-makassar-2018>, Accessed on Sunday, 18 November 2018, 11:34 pm.

Himas Puspito Putra, “Kolom Kosong Unggul di Pilwalkot, Ini Konsekuensinya”, 2018, Available at [https://www.inews.id/ daerah/ sulsel/163593/kolom-kosong-unggul-di-pilwalkot-makassar-ini-konsekuensinya](https://www.inews.id/daerah/sulsel/163593/kolom-kosong-unggul-di-pilwalkot-makassar-ini-konsekuensinya) Accessed on Monday, November 19, 2018, 12:30 am.

<https://kbbi.web.id/hukum> Accessed on Tuesday, June 5, 2018, 12:05 am.

Hari Tri Wasono, “Calon Tunggal Pilkada Blitar, KPU Dituding Tidak Adil”, <https://nasional.tempo.co/read/715260/calon-tunggal-pilkada-blitar-kpu-dituding-tak-adil>, Accessed on Sunday, 23 May 2018, 04:53 pm.

Ikhwan Hastanto, “Yang Terjadi Jika Calon Pilkada Hanya Satu Pasang Melawan Kotak Kosong dan Kotaknya Menang”, 2018, Available at <https://mojok.co/mih/esai/yang-terjadi-jika-calon-pilkada-hanya-satu-pasang-melawan-kotak-kosong-dan-kotaknya-menang/> Accessed on Monday, November 18, 2018, 10:17 pm.

JPNN.com, *Calon Tunggal di Pilkada Berpotensi Menurunkan Partisipasi Pemilih*, <https://pilkada.jpnn.com/news/calon-tunggal-di-pilkada-berpotensi-menurunkan-partisipasi-pemilih> Accessed on Thursday, 7 July 2018, 02:53 pm.

KPU DIY, “Fungsi dan Sistem Pemilihan Umum”, 2016, <http://diy.kpu.go.id/web/2016/12/19/pengertianAfungsi-dan-sistem-pemilihan-umum/> Accessed on Thursday, 24 May 2018, 1:13 pm.

Mahkamah Konstitusi Republik Indonesia“, 2015, http://www.mahkamahkonstitusi.go.id/index.php?page=web_Berita&id=12140#.Wr5NEdRubIU Accessed on Monday, April, 02, 2018, 12.29 am.

Susilo Utomo, “Kepemimpinan Lokal Era Pilkada Langsung”, Available at http://eprints.undip.ac.id/24427/1/Seminar_AIPI_Makasar_2008.pdf Accessed on Monday, March 5st, 2018, 13.40 pm.

Walid Mustafa, “Pemilu dan Proses Demokratisasi di Indonesia”, Available in https://www.kompasiana.com/walidmusthafa/pemilu-dan-proses-demokratisasi-di-indonesia_5512168d813311c953bc5fcf Accessed on Saturday, May 26, 2018, 02:06 am.

Yunizafira Putri AW, “13 Daerah di Pastikan Gelar Pilkada dengan Calon Tunggal”, Available at <https://www.liputan6.com/news/read/3523237/13-daerah-dipastikan-gelar-pilkada-dengan-calon-tunggal> Accessed on Monday, 18 November 2018, 10:00 pm.