

**PENEGAKAN PRINSIP DEMOKRASI-KONSTITUSIONAL OLEH
MAHKAMAH KONSTITUSI DALAM PENYELESAIAN SENGKETA
PEMILIHAN KEPALA DAERAH BERKEWARGANEGARAAN GANDA
(STUDI KASUS BUPATI TERPILIH SABU RAIJUA 2020, NTT)**

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ABSTRAK

Pelaksanaan prinsip demokrasi-konstitusional di Indonesia mengalami perkembangan yang cukup signifikan setelah diadopsinya prinsip partisipasi dan representasi dalam pesta Pemilihan Kepala Daerah (selanjutnya dibaca Pilkada) secara langsung dan serentak. Penyelenggaraan Pilkada serentak 2020 yang menjadi sorotan publik yakni hasil Pilkada Bupati Kabupaten Sabu Raijua, Nusa Tenggara Timur, yang dinilai inkonstitusional. Pasalnya, Calon bupati nomor urut 2 (dua), Orient P Riwu Kore, diduga memiliki kewarganegaraan ganda (bipateride) dinyatakan menang dalam Pilkada Kabupaten Sabu Raijua dengan perolehan suara 48,3% dari total keseluruhan suara. Permasalahan lain timbul disebabkan belum ada ketentuan yang mengatur penyelesaian sengketa cacat formil persyaratan warga negara yang diketahui setelah adanya penetapan hasil dan permohonan gugatan yang telah lewatnya batas waktu (kadaluwarsa) oleh Pemohon. Metode pendekatan yang digunakan adalah metode pendekatan yuridis normatif. Data yang digunakan adalah data sekunder berupa peraturan perundang-undangan, buku-buku literatur, artikel, jurnal dan dokumen resmi dengan cara studi pustaka, yaitu menginventarisasi data-data tersebut yang kemudian diidentifikasi dan dipelajari yang kemudian disajikan dalam bentuk uraian sistematis, logis dan rasional. Metode analisis bahan hukum adalah dengan menggunakan metode analisis normatif kualitatif. Hasil penelitian menunjukkan bahwa Mahkamah Konstitusi menerima dan memutus perkara *a quo* dengan alasan terdapat kondisi spesifik yang belum pernah terjadi dan belum diantisipasi pada peraturan Pemilu sebelumnya. Mahkamah memiliki alasan untuk menunda ketentuan formil (prosedural) pengajuan gugatan yakni ketentuan ambang batas dan tenggat waktu pengajuan. Mahkamah melakukan penafsiran terhadap asas jujur-adil (jurdil) secara progresif, penafsiran terhadap hak konstitusional, dan memutuskan Pemilihan Suara Ulang (PSU) guna mendapat keadilan substantif Pemilu (*electoral justice*).

Kata kunci : *Demokrasi-konstitusional, Kewarganegaraan ganda, Jujur-Adil, Hak Konstitusional, Pemilihan Suara Ulang*

**ENFORCEMENT OF DEMOCRACY-CONSTITUTIONAL PRINCIPLES BY
THE CONSTITUTIONAL COURT IN THE SETTLEMENT OF DISPUTES
FOR THE ELECTION OF DUAL CITIZENSHIP REGIONAL HEADS (CASE
STUDY OF THE ELECTED REGENT of SABU RAIJUA 2020, NTT)**

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ABSTRACT

The implementation of constitutional-democratic principles in Indonesia has developed quite significantly after the adoption of the principles of participation and representation in the regional head election party (hereinafter read Pilkada) directly and simultaneously. The holding of the 2020 simultaneous regional elections that has become the public spotlight is the results of the elections for the Regent of Sabu Raijua Regency, East Nusa Tenggara, which are considered unconstitutional. The reason is, Candidate for regent number 2 (two), Orient P Riwu Kore, suspected of having dual citizenship (bipateride) was declared victorious in the Sabu Raijua Regency Election with 48.3% of the total votes. Another problem arises because there are no provisions governing the settlement of formal disability disputes with citizen requirements which are known after the determination of the results and the application for a lawsuit that has passed the time limit (expired) by the Petitioner. The approach method used is a normative juridical approach. The data used is secondary data in the form of laws and regulations, literature books, articles, journals and official documents by means of a literature study, namely an inventory of these data which is then identified and studied which is then presented in the form of a systematic, logical and rational description. . Legal material analysis method is by using qualitative normative analysis method. The results of the study indicate that the Constitutional Court accepts and decides on the a quo case on the grounds that there are specific conditions that have never occurred and have not been anticipated in previous election regulations. The Court has a reason to postpone the formal (procedural) provisions for filing a lawsuit, namely the provisions on the threshold and deadline for filing. The Court carries out an interpretation of the principle of honesty and fairness (jurdil) progressively, interpretation of constitutional rights, and decides on re-election (PSU) in order to obtain substantive election justice (electoral justice).

Keywords : Constitutional-democratic, Dual citizenship, Honest and Fair, Constitutional rights, Re-election