

Criminal Law Policy toward the Nomination of Legislative Members In the Legislative Election in Indonesia

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Abstract

Political rights are rights owned by someone to carry out the process of choosing and being elected. Ahead of the implementation and stages of the general election and the election of legislative candidates in 2019 appear surface related to the political rights of legislative candidates who are former prisoners. The birth of the General Election Commission Regulation Number 20 of 2018 concerning the Nomination of Legislative Members in general elections, where PKPU prohibits legislative candidates who are former corruption inmates, former narcotics prisoners and prisoners of sexual violence against children. In this regard, the following is an assessment of the political rights of ex-prisoners in nominating in the legislative elections, the approach used in this study uses a normative juridical method.

Keywords: criminal policy, legislative candidates and general elections

A. Background

Indonesia is a legal state (*rechtsstaat*), not a state of power (*machsstaat*). The characteristics of state law (*rechtsstaat*) include; the protection of human rights, the separation or division of power to guarantee these rights, the government is based on regulations (*wetmatigheid van bestuur*) and the existence of administrative justice.¹⁷³ Besides that, Indonesia is a constitutional democracy.¹⁷⁴ In a democratic country, general elections, including regional head elections (post-conflict local election) are a means to realize popular sovereignty to play an active role in the administration of the country.

Article 1 paragraph (2) of the 1945 Constitution states that sovereignty is in the hands of the people and carried out according to the provisions of the Constitution. Article 1 paragraph (3) of the 1945 Constitution states that the Indonesian state is a legal state.¹⁷⁵ Based on the formulation of the article it is clear that the Indonesian state must guarantee the implementation of a free general election without exception, as proof that Indonesia is a legal state. In this context regional head elections and general elections are in the legal

¹⁷³ Moh. Mahfud M.D., *Demokrasi dan Konstitusi di Indonesia*, Jakarta: Rineka Cipta, 2000, hlm. 28.

¹⁷⁴ Miriam Budiardjo, *Dasar-dasar Ilmu Politik*, Jakarta: Gramedia Pustaka, 2009, hlm. 52.

¹⁷⁵ Jimly Asshiddiqie, *Gagasan Kedaulatan Rakyat Dalam Konstitusi Dan Pelaksanaannya Di Indonesia*, PT Ichtiar Baru Van Hoeve, Jakarta, 1994, hlm. 59 – 105.

dimension as a manifestation of human rights.¹⁷⁶ The principle of equality before the law must mean the impartiality of every citizen in the eyes of the law so that it can be prosecuted with the same degree without discriminating.¹⁷⁷

Article 28 letter D of the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) states that "everyone has the right to equal opportunities in government". Based on the sound of the article, in terms of elections, the political rights of citizens in general elections including regional head elections, namely the right to vote and be elected are a human right guaranteed in the 1945 Constitution of the Republic of Indonesia.

Theoretically, filling positions in a democratic country is practically the object of study of political science. Whereas the legal / juridical aspect of practical politics is the object of study of law, especially constitutional law. The term participation rights in the government can also use the term political rights, without reducing or adding existing definitions. As Miriam Budiardjo stated that politics can be interpreted as all activities involving the main political activities involving: (1) the state; (2) Power (Power); (3) Decision making (decisionmaking); (4) Wisdom (policy); (5) Distribution (allocation)¹⁷⁸. Referring to the definition, political rights can mean anything that concerns politics that can be demanded by citizens to the state to fulfill it.

2019 is a political year, the year for determining national succession both in the election of the president and vice president and the election of representatives of the DPR / City DPRD, Provincial DPR, DPR RI and DPD. To get a position as a state leader and people's representative, of course there are many ways used to smooth out periodic events every 5 (five) years, namely elections (elections). Elections are used as a place to get certain positions in certain positions. Of course, to get a certain position, each election participant tries his best to get the public vote. Starting from the ways in accordance with the orders and regulations, to ways that are fraudulent and contrary to the laws and regulations.

The attractiveness of elections, especially to become representatives of the people, is a very dominant position for legislative candidates, both in regions and in the center (DPRRI) and DPD. Even the attraction is contagious to legislative candidates who have been prisoners in a criminal case. In the perspective of political rights in general elections, each person has the same right to advance as a people's representative elected in general elections.

¹⁷⁶ Rahayu, *Hukum Hak Asasi Manusia*, Edisi Revisi, Badan Penerbit Universitas Diponegoro, Semarang, 2015, hlm. 1. hlm. 5-7.

¹⁷⁷ Topo Santoso dan Eva Achjani Zulfa, *Kriminologi*, Jakarta, Rajawali Pers, 2003, hlm. 5 lihat juga Ahmad Ulil Aedi, "Rekonstruksi Asas Kesamaan di Hadapan Hukum (Equality Before The Law) (Suatu Kajian Khusus Putusan Mahkamah Konstitusi Perkara 21-22/PUU-V/2007 Dalam Perspektif Filsafat Hukum)", artikel dalam *Jurnal Law Reform*, Vol. 8, No. 2, Tahun 2013, hlm. 1

¹⁷⁸ Miriam Budiardjo, *loc.cit.* hlm.8.

The General Election Commission (KPU) of the Republic of Indonesia has stipulated KPU Regulation (PKPU) Number 20 of 2018 concerning the Nomination of Members of the Republic of Indonesia Parliament, Provincial DPRD and Regency or City DPRD on Saturday 30 June 2018.¹⁷⁹ This Election Commission Regulation (PKPU) becomes a guideline for KPU to carry out the stages of nominating DPR, Provincial DPRD and Regency / City DPRD Members in the 2019 Election. One of the points in the PKPU regulates the prohibition of former corruption inmates to register themselves as legislative candidates. The rules are stated in Article 7 paragraph (1) letter h, namely that prospective members of the DPR, Provincial DPRD and Regency / City DPRD are Indonesian citizens and must fulfill the following requirements: "Not drug convicts, child sexual crimes, or corruption "

The stipulation of the Election Commission (PKPU) regulation, makes the candidates carried by political parties a very interesting debate, there are those who think that they are contrary to human rights, and are contradicted because they are considered to violate Law Number 7 of 2017 concerning General election. The debate mainly concerns the political rights of legislative candidates who have held status as prisoners.¹⁸⁰

The 19th On February 2019 the General Election Commission (KPU) announced as many as 82 former corruption convicts who registered as legislative candidates in the 2019¹⁸¹ general election. The KPU detailed a list of former corruptor candidates consisting of 9 DPD candidates, 23 provincial DPRD candidates, and 49 candidates for district / city DPRD. The Hanura Party became the party with the highest number of ex-corruptor candidates, 11 people. Followed by the Golkar Party and the Democratic Party with 10 people each. Then there is the Working Party with 7 people, 6 people Gerindra Party, 6 people PAN, 4 people Perindo Party, 4 people PKPI, 3 people UN, and 3 people PPP. Then there are PKB 2 people, PDIP 2 people, Garuda Party 2 people, and PKS 2 people.

Article 240 paragraph (1) letter g of Law No. 7 of 2017 concerning general elections states that "Candidates for DPR, Provincial DPRD and Regency / City DPRD are Indonesian citizens and must meet the following requirements: g. never been sentenced to prison based on a court decision that has obtained permanent legal force for committing a criminal offense that is threatened with imprisonment of 5 (five) years or more, except openly and honestly telling the public that the former convict is concerned. "

¹⁷⁹ Dikutip dari laman resmi KPU RI dalam <https://www.liputan6.com/pileg/read/3574920/kpu-resmi-larang-mantan-koruptor-jadicalleg-pemilu-2019>, ditelusuri pada tanggal 3 Maret 2019 Pukul 17:40 WIB.

¹⁸⁰ See Article 1 point 7 of Act Number 12 of 1995 concerning Correctional Services. What is meant by Prisoners is convicts who undergo criminal offenses in LAPAS. Whereas what is meant by Penitentiary Institution, hereinafter referred to as LAPAS, is a place to carry out fostering of Prisoners and Prisoners (Article 1 point 3 of Act Number 12 of 1995 concerning Correctional Services).

¹⁸¹ KPU Umumkan Caleg Mantan Koruptor Tambahan, Total 81 Orang, lihat dalam <https://www.cnnindonesia.com/nasional/20190219115418-32-370617/kpu-umumkan-caleg-mantan-koruptor-tambahan-total-81-orang>. Akses 15 maret 2019.

Officially, political rights have been recognized and protected by law, both international and national legal instruments. There are at least four international legal instruments that protect political rights, namely, among others: the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Convention concerning the elimination of all forms of racial discrimination (International Covenant On The Elimination of Racial Discrimination), the Convention on the elimination of all forms of discrimination against women (International Covenant On Elimination of Discrimination Against Women), and the Convention on Women's Political Rights (International Covenant On The Political Rights Of Women).

Indonesia itself has recognized the protection of human rights since the country's first constitution was formed. It is evident that the first written Indonesian constitution, the 1945 Constitution, has recognized the protection through article 27 paragraph (1), which states that all citizens are at the same time in law and government and are obliged to uphold the law and government with no exception⁶. Besides that, in the amended 1945 Constitution, political rights are also stipulated in article 28 and 28 D paragraph (3). Article 28 states that Freedom of association and assembly, issues thoughts with oral and written and so on, are stipulated by law⁷. Likewise, article 28 D paragraph (3) affirms that every citizen has the right to obtain equal opportunities in the government.

Based on the above, the author is interested in examining the prohibition of legislative candidates in general elections in the perspective of criminal law policy (criminal politics). The study uses a normative legal research approach, where the normative aspects of law are expressed by referring to outward behavioral rules¹⁸², in which research is prescriptive and applied. The legal material used in this study is primary legal material and secondary legal material. Legal materials are collected through document studies (literature studies), which are then analyzed using deduction techniques.

B. Discussion

1. Position of Political Rights

Democratic political systems are chosen because democracy provides an important role for the people. The people have the highest power in determining state policies through people's representatives elected through general elections. The theory of constitutional democracy cannot be separated from the concepts of democracy and nomocracy, because the two concepts converge so that the concept of a democratic legal state (demokratische rechtsstaat) and a constitutional democratic democracy are referred to as constitutional democrats.¹⁸³

¹⁸² Peter Mahmud Marzuki, *Penelitian Hukum*: Edisi Revisi-Cetakan ke-9, Jakarta: Kencana Purnada Media Group, 2014, hlm.39.

¹⁸³ Bisarida dkk, "Komparasi Mekansime Penyelesaian Sengketa Pemilu di Beberapa Negara Penganut Paham Demokrasi", *Jurnal Konstitusi*, Vol. 9, Nomor 3, 2012, hlm.538.

In a legal state, human rights are basic rights or basic rights that humans have from birth.¹⁸⁴ Whereas Jimly Asshidiqie said that guarantees for human rights are very important in a country's constitution.¹⁸⁵ Law Number 39 of 1999 concerning Human Rights contains a broad recognition of human rights. The law guarantees civil and political rights, economic, social and cultural rights, to group rights such as children, women and indigenous people.

Law Number 39 of 1999 clearly recognizes natural rights, which is to see human rights as a natural right inherent in every human being. Not only that, the categorization of rights in it refers to international documents on human rights, such as the Universal Declaration of Human Rights, the International Convenan on Civil and Political Rights, the International Convention on Economic, Social and Cultural Rights, the International Convention on the Rights of Child, and so.

The first group, namely the group concerning civil rights, among others: 1) The right to live, maintain life and life; 2) The right to be free from torture, other cruel, inhuman or degrading treatment or punishment; 3) The right to be free from all slavery. The second group is political, economic, social and cultural rights including: 1) The right to organize, gather, express opinions peacefully both orally and in writing. 2) The right to choose and be elected in the people's representative institution. 3) The right to be appointed to occupy public positions. 4) The right to own private property. The third group, is a group of special rights and rights to development, among others: 1) Women's rights are guaranteed and protected to get gender equality in national life; 2) Special rights inherent in women because their reproductive functions are guaranteed and protected by law; 3) Right to a clean and healthy environment.¹⁸⁶ The fourth group, is the group that regulates state responsibility and human obligations, including: 1) Every person must respect the human rights of others in the order of the life of the community, nation and state; 2) Everyone must submit to the restrictions set by law with the sole purpose of guaranteeing the recognition and respect for the rights and freedoms of others and to fulfill the demands of justice in accordance with religious values, morality and morality, security and order general; 3) The state is responsible for the protection, promotion, enforcement and fulfillment of human rights; 4) To ensure the implementation of human rights an independent National Human Rights Commission is formed.

Of the four human rights groups there are human rights that cannot be reduced in any circumstances or nonderorable rights, namely: Right to life, Right not to be tortured, Right to freedom of mind and conscience, Religious rights, Right not to be enslaved, Right to recognized as a person before the law, and the right not to be prosecuted on the basis of retroactive law.¹⁸⁷

¹⁸⁴¹⁸⁴ Mexsasai Indra, *Dinamika Hukum Tata Negara Indonesia*, Bandung: Refika Aditama, 2011, hlm. 167.

¹⁸⁵ Jimly Asshidiqie, *Pengantar Ilmu Hukum Tata Negara*, Jakarta: Rajawali Press, 2011, hlm.343.

¹⁸⁶ Jimly Assidiqie, *Pengantar Ilmu Hukum Tata Negara*, Bandung: Rajawali Press, 2012, hlm. 364.

¹⁸⁷ *Ibid.*, hlm. 362.

2. PKPU Position in the Legal Norm System

In legal theory, it is very clear that a norm must not conflict with the norm above it. This is what is meant by a system of legal norms or legislation hierarchy. Hierarchy in this case can be interpreted simply as a level of a rule of law, or a structure of written legal norms in legislation. Hans Kelsen who put forward the theory of legal norms (*Stufentheorie*) argues that legal norms are tiered and multilayered in a hierarchy (arrangement) in the sense that a higher norm applies, originates, and is based on higher norms. again, so on until it reaches a norm that cannot be traced further and is hypothetical and fictitious and abstract, namely Basic Norms or *Grundnorm*.¹⁸⁸

The same view was also conveyed by Purnadi Purbacaraka and Soerjono Soekanto, who said that ideally the formation of regulations should not conflict with the rules above. the formation of regulations must pay attention to the principles of legislation, one of which is "Laws made by higher authorities have a high position as well" or *Lex superiori derogat legi inferiori*.¹⁸⁹ While from Hans Nawiasky who succeeded in developing this theory called "*die Theorie vom Stufenordnung der Rechtsnormen*". He said that in addition to the norms were multi-layered and tiered, the legal norms of a country were also groups, and the grouping of legal norms in a country consisted of four major groups, namely:¹⁹⁰

Group I: *Staatsfundamentalnorm* (State Fundamental Norms);

Group II: *Staatsgrundgesetz* (Basic Rules / Basic Rules of the Country);

Group III: *Formell Gesetz* (Act);

Group IV: *Verordnung & Autonome* (Implementing Rules / Autonomous Rules).

From this grouping, if we apply it in this context, PKPU can be said to belong to group IV which is one form of autonomous rule. Autonomous rules are said because the authority to form them comes from the attribution authority. the notion of authority attribution in the formation of legislation is the granting of authority to form legislation provided by *grondwet* (Basic Law) or *wet* (law) to a government / state institution.¹⁹¹

The position of PKPU in the above as stated in Article 257 of Law No. 7 of 2017 concerning the General Election that "Further provisions concerning technical guidelines for nominating members of the DPR, provincial DPRD and regency / city DPRD are regulated in KPU Regulations". However, as a regulation which regulates further and is more technical, it is

¹⁸⁸Indrati, Maria Farida, *Ilmu Perundang-Undangan: Jenis, Fungsi, dan Materi Muatan*. Kanisius, Yogyakarta: 2007, hlm 41.

¹⁸⁹Soerjono, Soekanto & Purnadi Purbacaraka, *Perihal Kaidah Hukum*. PT. Citra Aditya Bakti. Bandung: 1993, hlm 92.

¹⁹⁰Maria Farida Indrati, *Op.cit*, hlm 44.

¹⁹¹*Ibid*, hlm 56.

appropriate that the regulation does not "exceed the limits" given by the law, let alone be contrary to legal norms. Furthermore, the principle regarding the norm structure even becomes a positive law regulated in Law Number 12 of 2011 concerning the Establishment of Legislation. It is said that "The legal power of the Laws and Regulations is in accordance with the hierarchy".

If there is a lower legal level regulatory norms that are considered contrary to higher regulations, then according to Law Number 12 Year 2011 it has provided a solution by conducting a testing mechanism (Material Test). In this context, then if PKPU is deemed to be contrary to the Election Law, the test is conducted at the Supreme Court (Article 9 paragraph (2) of Law Number 12 Year 2011).

3. Candidates for ex-convicts with a criminal political perspective

The terminology of policy comes from the term "policy" (English) or "politiek" (Dutch). Terminology can be interpreted as a general principle that serves to direct the government (including law enforcement) in managing, regulating or resolving public affairs, community issues or the fields of drafting legislation and allocating laws / regulations in a purpose (general) which leads to efforts to realize the prosperity and prosperity of the people (Citizens).¹⁹²

The term criminal law policy can also be referred to as criminal law politics. In the foreign literature the political term of criminal law is known by various terms, including penal policy, criminal law policy or strafrechtspolitiek.¹⁹³ The politics of criminal law implies, how to try or make and formulate a good criminal legislation. According to Mahmud Mulyadi, the politics of criminal law is an attempt to determine the direction in which the imposition of Indonesian criminal law in the future by looking at its current enforcement.¹⁹⁴

In the sense of "reason policy" from Marc Ancel mentions that "a science as well as art that aims to enable the regulation of positive law to be better formulated".¹⁹⁵ The definition of criminal law policy or politics can be seen from legal politics and criminal politics. According to Sudarto, "Politics of Law" are:¹⁹⁶

- a. Efforts to realize good regulations in accordance with the situation and situation at a time.

¹⁹²Lilik Mulyadi, *Bunga Rapai Hukum Pidana Perspektif Teoritis dan Praktik*, PT. Alumni Bandung, 2008, hlm. 389.

¹⁹³Aloysius Wisnubroto, *Kebijakan Hukum Pidana dalam Penanggulangan Penyalahgunaan Komputer*, Yogyakarta, Universitas Atmajaya, 1999, hlm.10.

¹⁹⁴Mahmud Mulyadi, *Criminal Policy: Pendekatan Integral Penal Policy dan Non Penal Policy Dalam Penanggulangan Kejahatan Kekerasan*, Pustaka Bangsa Press, Medan, 2008, hlm. 66.

¹⁹⁵Barda Nawawi Arief, *Kebijakan Hukum Pidana Perkembangan penyusunan Konsep KUHP Baru*, Semarang, Kencana Prenadamedia Group, 2008, hlm. 27.

¹⁹⁶Sudarto, *Hukum dan Hukum Pidana*, Bandung, Alumni, 1981, hlm. 159.

b. The policy of the state through the authorized bodies to determine the desired regulations that are expected to be used to express what is contained in the community and to achieve what is aspired.¹⁹⁷

In the perspective of criminal law, someone who is declared a prisoner is formed based on the criminal justice system. The criminal justice system is formed in order to protect citizens (communities) from other forms of social behavior that have been legally established in various laws and regulations as crime. Efforts to provide protection for the community through the criminal justice system have been started since pre-adjudication, adjudication and after adjudication. The series of criminal justice systems began from the investigation, investigation, prosecution, verification, court decision, and after the trial. These actions are carried out by law enforcement institutions ranging from police, prosecutors, courts and prisons. The integrity of these actions contradicts and refers to the same work system, namely criminal policy, in which the use of criminal policies includes criminal law, criminal procedure law, judicial legislation, and legislation from law enforcement institutions others.¹⁹⁸

The use of the criminal justice system, not merely as a means (instrument) of law enforcement, but is expected to be able to present the application of a just criminal law (the ordering of justice). In addition, the criminal justice system has a role as a means of controlling the country's social affairs. This appointment is aimed at legal events that have a public dimension, and politics. The purpose of this application is expected to have usefulness in the enforcement of criminal law (social security laws).

As a social symptom, criminal law is born in the context of regulating and overcoming the problems of crime that occur in society. An act is referred to as an evil deed, when the norms and laws are contrary to the legal norms that exist in society and the state. Criminal law is present among the public in guardian of security.¹⁹⁹

In criminal law perspective, an act can be said to be evil or violating the law, it must be based on the formulation of the offense of the crime. This basis in the criminal law is called the principle of legality (*nullum crime, sine lege*). To be able to be disciplined an action must have been determined before a person commits a criminal act. The legal principles contained in Article 1 paragraph (1) of the Criminal Code are:

1. That criminal law comes from written legislation;
2. Criminal provisions may not be retroactive;

¹⁹⁷Sudarto, *Hukum Pidana dan Perkembangan Masyarakat*, Bandung, Sinar Baru, 1983, hlm. 20

¹⁹⁸See Mulyana W. Kusumah, *Tegaknya Supremasi Hukum, Terjebak Antara Memilih Hukum dan Demokrasi*, Remaja Rosdakarya, Bandung, 2001, hlm 3.

¹⁹⁹The principle of criminal law is contained in Article 1 paragraph (1) of the Criminal Code (KUHP) which is that No Act can be punished but on the strength of criminal provisions in existing laws first.

3. Do not use analogies;

As for the formulation of legislation that is categorized as a criminal offense refers to the formulation mentioned by experts, among others, Moeljanto states that what is meant by a crime is an act that is prohibited and threatened with crime, for those who violate the prohibition, the act must be felt by the community as a social order barrier that is aspired by the community.²⁰⁰ Whereas Loebby Lukman said that the elements of criminal acts include:²⁰¹

- a) Human actions both active and passive;
- b) The act is prohibited and threatened with crime by law;
- c) The act is considered illegal;
- d) The act can be blamed;
- e) The perpetrators can be accounted for.

Pompe, giving rumors of criminal acts as a norm violation (disruption to legal order) which intentionally or unintentionally has been carried out by a perpetrator, where the legal imposition of the perpetrator is necessary for the maintenance of legal order and the guarantee of public interest.²⁰²

Criminalization of criminal offenders as stated in KPU Regulation Number 20 of 2018 is a limitation on the political rights of a citizen to occupy certain political positions. Each candidate for the legislature is obliged to maintain his dignity so that he does not make himself a person who has bad or bad personality. Morally, a person who has been convicted is a person who has acted and committed evil towards the values of goodness, honesty and obedience to norms and laws.

In the case of crimes against sexual violence against children, an ex-convict who has re-nominated has exacerbated the generation that will continue the development development of a country, so that the state guarantees protection for children by issuing law number 35 of 2014 concerning Amendment to Law Number 23 2002 concerning Child Protection. A similar statement made by the president of the Republic of Indonesia which states that crimes against children are considered as extraordinary crimes.²⁰³

²⁰⁰Moeljanto, *Perbuatan Pidana dan Pertanggungjawaban Dalam Hukum Pidana*, Bina Akasara, Jakarta, 1993, hlm 22-23.

²⁰¹Loebby Luqman, *Tentang Tindak Pidana dan Beberapa Hal Penting Dalam Hukum Pidana*, Tanpa Penerbit dan Tahun, Jakarta, hlm 13.

²⁰²PAF, Lamintang, *Dasar-Dasar Hukum Pidana Indonesia*, Citra Aditya Bakti, Bandung, 1997, hlm 182.

²⁰³<https://www.voaindonesia.com/a/presiden-jokowi-kejahatan-seksual-terhadap-anak-adalah-kejahatan-luar-biasa/3324087.html>. Akses 12 maret 2019.

In the case of corruption crimes, a legislative candidate who is a former corruption convict (corrupt), he is convicted of a criminal act of corruption. Corruption is an extraordinary crime with dimensions of transnational crime, as stipulated in UNCAC and Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the eradication of criminal acts of corruption. Corruption means corruption, immorality and abuse of power in a public office. A candidate for the legislature should not have a track record of being a former prisoner, because when he served as a representative the people had influence in the administration of the state, so that political officials and public officials should have integrity from criminal acts of corruption, because salaries were paid a high allowance and get various facilities provided by the state.

In the case of narcotics crime, a legislative candidate is given a limit not to run for office when he is a former narcotics prisoner. Narcotics criminal acts have a significant impact on various aspects of life. In the context of health, drug abusers have problems both physically and psychologically. In the economic context, many of them end up in financial difficulties because they are no longer able to work. Narcotics and Psychotropic crimes are serious humanitarian crimes, which have tremendous impacts, especially in the younger generation of a civilized nation. Narcotics crime is a transnational crime, because the spread and trafficking is carried out across national borders.²⁰⁴

Narcotics abuse for themselves is regulated in Article 127 of Law No. 35 of 2009 concerning Narcotics, which reads: (1) Every Misuse: 1. Narcotics Group I for itself shall be punished with a maximum imprisonment of 4 (four) years; 2. Narcotics Group II is for itself punishable by imprisonment for a maximum of 2 (two) years; and, 3. Narcotics Group III for oneself shall be punished with imprisonment for a maximum of 1 (one) year.

C. Conclusion

1. Political rights as part of human rights, in the practice of the state are limited by the specific law by the general election law number 7 of 2017 Article 240 paragraph (1) letter g.
2. The position of the election commission regulation (PKPU) in the hierarchy system of legislation is the type and granting of authority to form legislation provided by the Constitution (grundwet);
3. Criminal policy against all three criminal acts is seen as extraordinary crime. A candidate for the legislature is inappropriate (ethical) and questionable in his morality when he has been bearing the status of an inmate of the three criminal acts, because political office requires souls that are clean, honest and have integrity in serving political and public positions.

²⁰⁴Syaiful Bakhri, *Tindak Pidana Narkotika Dan Psikotropika*, dalam <http://dr-syaifulbakhri.blogspot.com/2012/03/tindak-pidana-narkotika-dan.html>. Akses 12 maret 2019.

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