



DECISION

NUMBER 99/PUU-VII/2009

FOR THE SAKE OF JUSTICE UNDER THE ONE ALMIGHTY GOD

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA

[1.1] Examining, hearing and deciding upon constitutional cases at the first and final levels, has hereby passed a decision in the case of Petition for Judicial Review of Law Number 42 Year 2008 regarding the General Elections of the President and Vice President under the 1945 Constitution of the State of the Republic of Indonesia filed by:

- [1.2] 1. **KARANIYA DHARMASAPUTRA**, occupation/position: Editorial Head of **online media** www.vivanews.com, having its address at Standard Chartered Tower, 13th Floor, Jalan Prof. Dr. Satrio Number 164 Casablanca, South Jakarta;
2. **HERU HENDRATMOKO**, occupation/position: Editorial Head of **Kantor Berita Radio 68H**, having its address at Jalan Utan Kayu Number 68, Jakarta;

3. **FX. RUDI GUNAWAN**, occupation/position: Editorial Head of **VHR Media**, having its office address at Jalan Tebet Dalam II Number 15, Tebet, South Jakarta;
4. **ENDI M. BAYUNI**, occupation/position: Editorial Head of **The Jakarta Post**, having its office address at Jalan Palmerah Selatan Number 15, Jakarta;
5. **SRI MALELA MAHARGASARI**, occupation/position: Editorial Head of **Koran Tempo**, having its office address at Kebayoran Center Block A 11-A Number 15, Jalan Kebayoran Baru, Mayestik, Jakarta;
6. **RAMADHAN POHAN**, occupation/position: Editorial Head of **Jurnal Nasional**, having its office address at Jalan Pemuda Number 34 Rawamangun, East Jakarta;
7. **TORIQ HADAD**, occupation/position: Editorial Head of **Tempo Magazine**, having its office address at Jalan Proklamasi Number 72, Central Jakarta.

By virtue of a Special Power of Attorney dated May 6, 2009 having granted power of attorney to Hendrayana, S.H., Sholeh Ali, S.H., Adiani Viviana, S.H., Arief Ariyanto, S.H., Nita Saftarina, S.H., Andry Oktriawan, S.H., Margiyono, S.H., Asep Komarudin, S.H., and Endar Sumasono, S.H., all of whom are Advocates from the Legal Aid Institute for the Press

and the Advocacy Division of the Indonesian Journalists Alliance, having their legal domicile at Jalan Prof. Dr. Soepomo, S.H., BIER Complex, Number 1A, Menteng Dalam, Central Jakarta, hereinafter referred to as ---

----- **the Petitioners.**

[1.3] Having read the petition of the Petitioners;

Having heard the statements of the Petitioners;

Having examined the evidence presented by the Petitioners;

3. LEGAL CONSIDERATIONS

[3.1] Whereas the main legal issue of the Petitioners' petition is concerned with the judicial review of Article 47 paragraph (5) to the extent it is concerned with the word "news", Article 56 paragraph (2), paragraph (3), and paragraph (4), as well as Article 57 paragraph (1) and paragraph (2) of Law Number 42 Year 2008 regarding the General Elections of the President and Vice President (State Gazette of the Republic of Indonesia Year 2008 Number 176, Supplement to the State Gazette of the Republic of Indonesia Number 4924, hereinafter referred to as Law Number 42/2008) under the 1945 Constitution of the State of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution);

[3.2] Whereas prior to considering the Substance of the Petition, the Constitutional Court (hereinafter referred to as the Court) shall first consider the following matters:

- a. authority of the Court to examine, hear, and decide upon the *a quo* petition;
- b. legal standing of the Petitioners to file the *a quo* petition;

Authority of the Court

[3.3] Whereas based on Article 24C paragraph (1) of the 1945 Constitution, one of the constitutional authorities of the Court is to hear cases and conduct at the first and final levels, the result of which shall be final in nature, the judicial review of laws under the Constitution;

[3.4] Whereas since the *a quo* petition is concerned with the judicial review of a law under the Constitution, *in casu* Law Number 42/2008 under the 1945 Constitution, the Court therefore has authority to examine, hear and decide upon the *a quo* petition;

Legal Standing of the Petitioners

[3.5] Whereas based on Article 51 paragraph (1) along with its Elucidation of Law Number 24 Year 2003 regarding the Constitutional Court (State Gazette of the Republic of Indonesia Year 2003 Number 98, Supplement to the State Gazette of the Republic of Indonesia Number 4316, hereinafter

referred to as the Constitutional Court Law), parties who may file a petition for the judicial review of a law under the 1945 Constitution shall be those who believe that their constitutional rights and/or authorities granted by the 1945 Constitution have been impaired by the coming into effect of a law, namely:

- a. individual Indonesian citizens (including groups of people having a common interest);
- b. customary law community groups insofar as they are still in existence and in line with the development of the communities and the principle of the Unitary State of the Republic of Indonesia as regulated in law;
- c. public or private legal entities; or
- d. state institutions;

Hence, in the judicial review of law under the 1945 Constitution the Petitioners must explain and substantiate the following:

- a. their qualification as petitioners as intended in Article 51 paragraph (1) of the Constitutional Court Law;
- b. whether or not there is any impairment of constitutional right and/or authority granted by the 1945 Constitution as a result of the coming into effect of the law being petitioned for review;

[3.6] Considering also that since the Court's Decision Number 006/PUU-III/2005 dated May 31, 2005 and Decision Number 11/PUU-V/2007 dated September 20, 2007, the Court is of the opinion that the impairment of constitutional rights and/or authority, as intended in Article 51 paragraph (1) of the Constitutional Court Law, must meet five requirements, namely:

- a. the existence of constitutional rights and/or authority of the Petitioners granted by the 1945 Constitution;
- b. the Petitioners consider that such constitutional rights and/or authority have been impaired by the coming into effect of the law petitioned for review;
- c. the impairment of such constitutional rights and/or authority must be specific and actual or at least potential in nature which, pursuant to logical reasoning, can be assured of occurring;
- d. there is a causal relationship (*causal verband*) between the impairment of constitutional rights and/or authority of the Petitioners and the law petitioned for review;
- e. the possibility that with the granting of the Petitioners' petition, the impairment of such constitutional rights and/or authority asserted by the Petitioners will not or will no longer occur;

[3.7] Whereas based on the explanation regarding the provisions of Article 51 paragraph (1) of the Constitutional Court Law and the requirements for the impairment of constitutional rights and/or authority as described above, the Court will now consider the legal standing of the Petitioners in accordance with the Petitioners' explanation in their petition along with the relevant evidence, as follows:

- a. The Petitioners are Indonesian citizens respectively holding the position of editorial head of a daily newspaper, editorial head of a Weekly Magazine, editorial head of an electronic/online media (dot com) newspaper, editorial head of electronic radio news, protagonist/seeker of information/news, news announcer, and news distributors through newspapers and/or magazines and/or electronic media and/or radio, led by the Petitioners. Therefore, the occupations of the Petitioners are closely related to **Article 47 paragraph (5)** to the extent it is concerned with the word "news", which reads *"During the cooling off period, the print mass media and broadcasting institutions as intended in paragraph (1) shall be prohibited from broadcasting news, advertisements, track records of Candidate Pairs or any other forms of broadcast oriented towards campaign interests which favor or disfavor any Candidate Pair,"* **Article 56 paragraph (2)** which reads *"In the event that there is evidence of violation of the provisions of Article 51, Article 52, and Article 53, the Indonesian Broadcasting Commission or the Press Council shall impose sanctions as regulated in this Law,"* **Article 56 paragraph (3)** which reads *"The*

*imposition of sanctions as intended in paragraph (2) shall be informed to the General Elections Commission and Provincial General Elections Commission,” and **Article 56 paragraph (4)** which reads, “In the event that the Indonesian Broadcasting Commission or the Press Council does not impose a sanction as intended in paragraph (3) within a period of 7 (seven) days as of the finding of evidence of violation in the campaign, the General Elections Commission, provincial General Elections Commission, and regency/municipality General Elections Commission shall impose a sanction upon the campaign organizer,” as well as **Article 57 paragraph (1)** which reads “The sanctions as intended in Article 56 paragraph (2) may take the form of:*

- a. a written reprimand;*
- b. the temporary discontinuance of the problematic program;*
- c. the reduction of campaign duration and time of reporting, broadcasting, and advertisements;*
- d. a fine;*
- e. the freezing of the activities of campaign reporting, broadcasting, and advertisements for a certain period; or*
- f. the revocation of broadcasting permit or revocation of print mass media publication permit”, and;*

- Article 57 paragraph (2)** which reads *"Further provisions with regard to the procedures and imposition of sanctions as intended in paragraph (1) shall be stipulated by the Indonesian Broadcasting Commission or the Press Council together with the General Elections Commission"* of Law Number 42 Year 2008 regarding the General Elections of the President and Vice President petitioned for judicial review, as they have violated the Petitioners' constitutional rights by limiting reporting and/or broadcasting and/or by threatening sanctions which would muzzle the press, whereas such things are explicitly no longer valid in the reform era;
- b. The articles petitioned for the *a quo* judicial review have similar contents to those of Article 98 paragraph (2) and paragraph (3) **and** Article 99 paragraph (1) and paragraph (2) of Law Number 10 Year 2008 regarding the General Elections of Members of the People's Legislative Assembly, the People's Representative Council, and the Regional People's Legislative Assembly which the Constitutional Court has declared to be inconsistent with the 1945 Constitution and to not have any binding legal force. The Court is of the opinion that the Petitioners have legal standing as Petitioners in the *a quo* petition;

[3.8] Whereas since the legal issues raised in respect of the articles in the *a quo* Law are similar to the legal issues in Article 98 paragraph (2) and paragraph (3), and Article 99 paragraph (1) and paragraph (2) of Law Number 10 Year 2008 in relation to which the Court has already rendered judgment, the

Court considers it unnecessary to once again hear the statements of the Government and/or the People's Legislative Assembly as law-makers because the statements of the aforementioned two institutions have been provided in the hearing of the Constitutional Court and have been set forth in the Decision of the Court in Case Number 32/PUU-VI/2008;

[3.9] Whereas since the Court has authority to examine, hear, and decide upon the *a quo* petition and all the Petitioners have legal standing to act as Petitioners, the Court shall subsequently consider the Substance of the Petition;

Substance of the Petition

[3.10] Whereas reading the Petitioners' arguments and statements in the hearing, as explained above in the Legal Considerations part, the legal issues of the petition which must be considered and decided by the Court are as follows:

[3.10.1] According to the Petitioners, there is a very fundamental difference between a broadcasting institution as regulated in Law Number 32 Year 2002 regarding Broadcasting and print media as regulated in Law Number 40 Year 1999 regarding the Press, namely that a broadcasting institution using the limited air spectrum requires a permit from the Minister of Communications and Information Technology and the Indonesian Broadcasting Commission (KPI), whereas the print media no longer requires a permit from any agency. Therefore, the regulation in a law which tends to generalize the aforementioned two

institutions is very inappropriate as it will create various ambiguities, multiple interpretations and implementation, which may occur because the *a quo* articles contain internal contradictions (*contradictio in terminis*) which will ultimately create legal uncertainty;

[3.10.2] According to the Petitioners, a contradiction between one law and another cannot be immediately categorized as a conflict between the principles of *lex specialis* and *legi generali*. The principle of the freedom the press without requiring any permit as provided for in the Press law cannot be simply negated by Law Number 42 Year 2008 regarding the General Elections of the President and Vice President because inconsistencies in the regulation of laws will destroy the pillars of a constitutional state;

[3.10.3] According to the Petitioners, Article 47 paragraph (5), to the extent it is concerned with the word “news”, Article 56 paragraph (2), paragraph (3), and paragraph (4), as well as Article 57 paragraph (1) and paragraph (2) violate the Petitioners’ constitutional rights because such provisions:

- a. do not guarantee equality before the law and in government administration;
- b. do not provide the right to seek, obtain, own, store, process, and impart information using all available kinds of channels;
- c. do not provide the right to obtain facilities and special treatment in order to gain equal opportunities to achieve equality and justice;

- d. do not provide the right to be free from discriminatory treatment on any basis whatsoever and do not provide the right to the protection from such discriminatory treatment;
- e. do not provide protection of the right to express opinions orally or in writing which has been guaranteed in the 1945 Constitution.

[3.11] Whereas in support of the arguments in their petition, the Petitioners have presented evidence marked as Exhibit P-1 up to and including Exhibit P-8.

Opinion of the Court

[3.12] After considering the Petitioners' arguments in their petition, the Petitioners' statements in the hearing and prior to considering the substance of the petition, the Court will give its opinion on the articles petitioned for review in the *a quo* petition. The Court needs to affirm that the norms in the articles petitioned for review are similar to the norms in Article 98 paragraph (2), paragraph (3), and paragraph (4) of Law Number 10 Year 2008 regarding the General Elections of Members of the People's Legislative Assembly, the People's Representative Council, and the Regional People's Legislative Assembly which the Court has declared inconsistent with the 1945 Constitution and which no longer have any binding legal force so that it is sufficient for the Court to refer to its opinion in Case Number 32/PUU-VI/2008 dated February 24, 2009 which is principally as follows:

1. *Whereas basically there is a fundamental difference between broadcasting institutions as regulated by Law Number 32/2002 and the print media as regulated in Law Number 40/1999, namely that the media in the form of a broadcasting institution using the limited air spectrum requires a permit the issuance of which involves the Minister of Communications and Information Technology and the Indonesian Broadcasting Commission (KPI), while the print mass media does not require any permit from any agency. Therefore, regulations in a law which tend to generalize both press institutions are certainly not or inadequately appropriate and may cause various ambiguities in their interpretation and application, as has occurred with the regulations of Law Number 10/2008 in relation to the Broadcasting Law (Law Number 32/2002) and the Press Law (Law Number 40/1999);*

2. *Whereas a contradiction among laws cannot immediately be categorized or considered as a conflict between *lex specialis* and *legi generali*, as conveyed by the Government deeming Law Number 10/2008 to be *lex specialis* and Law Number 40/1999 as well as Law 32/2002 to be *legi generali*, so that the principle of the freedom of the press which does not require any permit as set forth in Law Number 40/1999 can be negated or nullified by Law Number 10/2008 for the reason that Law Number 42/2008 is a *lex specialis*. In fact, such a viewpoint constitutes a simplification of the problem which may create legal uncertainty and injustice which are*

inconsistent with the Constitution/the 1945 Constitution namely Article 28D paragraph (1) and Article 28F. Inconsistency in regulations will harm the pillars of the constitutional state or the rule of law which also require that "law must be fairly and consistently applied" (vide Barry M. Hager, The Rule of Law: A Lexicon for Policy Makers, 2000);

3. The legal issues raised by the Petitioners are similar to the legal issues in Case Number 32/PUU-VI/2008 and that the Court considers it unnecessary to hear the statement of the Government and/or the People's Legislative Assembly, and therefore, the opinion of the Government and/or the People's Legislative Assembly as law-makers as set out for Case Number 32/PUU-VI/2008 shall, *mutatis mutandis*, deemed the same in the *a quo* case. The Court needs to reassert that it " ... *is not of the same opinion with the Government and the People's Legislative Assembly (DPR) arguing that the constitutionality of the articles petitioned for the a quo judicial review cannot be reviewed before the Court since they contain contradictions between one law and another, namely among Law Number 40/1999, Law Number 32/2002 and Law Number 10/2008. According to the Court, the articles petitioned for review are not only inconsistent with both laws previously stipulated, but also directly inconsistent with several articles of the 1945 Constitution. Furthermore, according to the Court the provisions of the articles petitioned for review contain internal contradictions (contradictio in terminis) so that they create legal uncertainty, the prohibition of which is regulated in the 1945 Constitution.*

4. *In line with the opinion of the experts presented by the Government in Case Number 32/PUU-VI/2008 stating that not all institutions may claim themselves to be law enforcement agencies, the Court in the legal considerations of its Decision Number 005/PUU-I/2003 dated July 28, 2004 states that the imposition of sanctions, especially severe sanctions such as the revocation of a broadcasting permit, must take account of the principle of “due process of law”;*

[3.13] Whereas based on the foregoing four points, the Court will now give its opinion on the matters which constitute the principal substance of the Petitioners’ petition, as follows:

1. With respect to Article 47 paragraph (5), to the extent it is concerned with the word “news”, which completely reads *“The print mass media and broadcasting institutions as intended in paragraph (1) shall be prohibited from broadcasting news, advertisements, track records of Candidate Pairs or any other forms of broadcast oriented towards campaign interests which favor or disfavor any Candidate Pair,”* the Petitioners argue that it is impossible to report any news which is measurably neutral, not favoring or disfavoring any candidate pair, because favorable or unfavorable characteristics do not have any clear parameters and are subjective. If news has to be neutral, in a sense that it shall not favor or disfavor any candidate pair, it can be ascertained that the Petitioners cannot publish any news reports as meant above. This is due to the fact that anyone can

claim to be favored or disfavored by any news, depending on his/her subjective judgment. According to the Court, reporting news is a part of every person's human right to seek, obtain, own, store, process and impart information using all available kinds of channels as protected by the Constitution. News reporting about candidate pairs of President/Vice President will in fact help give information to the greatest extent to prospective voters regarding the track records and quality of the candidate pairs of President/Vice President, all of which will ultimately rest with the subjective judgment of the listeners or readers of the news, which will in turn improve the quality of the festival of democracy which is the people's right. In other word, obtaining news about candidate pairs of President/Vice President is part of the right of every person or citizen to obtain and impart information. Therefore, the Petitioners' arguments that Article 47 paragraph (5), to the extent it is concerned with the word "news", is inconsistent with Article 28F of the 1945 Constitution are based on sufficient grounds.

2. Whereas Article 56 paragraph (2) which reads *"In the event that there is evidence of violation of the provisions in Article 51, Article 52, and Article 53, the Indonesian Broadcasting Commission or the Press Council shall impose sanctions as regulated in this Law"*, the Court remains of the opinion that *"...the word "or" may in fact give rise to an interpretation that the institutions having capacity to impose sanctions are alternative in nature, namely the Indonesian Broadcasting Commission or the Press*

- Council, which allows the imposition of different types of sanctions, leading to legal uncertainty and injustice. Furthermore, in accordance with its position and function pursuant to Law Number 40/1999, the Press Council has no authority to impose sanctions upon the press, particularly the print media".* Therefore, the Petitioners' argument that Article 98 paragraph (2) of Law Number 10/2008 is inconsistent with Article 28D paragraph (1) of the 1945 Constitution is based on sufficient grounds;
3. Whereas the Petitioners also consider that Article 56 paragraph (3) which reads *"The imposition of sanctions as intended in paragraph (2) shall be informed to the General Elections Commission and Provincial General Elections Commission,"* is also inconsistent with Article 28D paragraph (1) of the 1945 Constitution. According to the Court, by referring to the considerations in point 2 above, the existence of the *a quo* article is no longer relevant and that the Petitioners' arguments are, *mutatis mutandis*, based on sufficient legal grounds and reasons.
 4. The Petitioners consider that Article 56 paragraph (4) which reads, *"In the event that the Indonesian Broadcasting Commission or the Press Council does not impose a sanction as intended in paragraph (3) within a period of 7 (seven) days as of the finding of evidence of violation in the campaign, the General Elections Commission, provincial General Elections Commission, and regency/municipality General Elections Commission shall impose sanctions upon the campaign organizer"*, is inconsistent with

Article 28D paragraph (1) and Article 28J paragraph (1) of the 1945 Constitution. According to the Court, the formulation of the aforementioned provision confuses the position and authority of the Indonesian Broadcasting Commission (KPI) and the Press Council with the authority of the General Elections Commission (KPU) in imposing sanctions on General Elections campaign organizers so as to create ambiguity and legal uncertainty. Therefore, the Petitioners' arguments are based on sufficient grounds and the considerations in point 2 and point 3 shall also, *mutatis mutandis*, apply to this point 4;

5. Whereas Article 57 paragraph (1) provides for sanctions which may be imposed by the Indonesian Broadcasting Commission (KPI) or the Press Council [*vide* Article 56 paragraph (2)]. According to the Court, it seems that Article 57 paragraph (1) sub-paragraph a up to and including sub-paragraph e are only relevant to broadcasting institutions, as the provisions are merely a complete copy of the provisions in Law Number UU 32/2002 and are not relevant to the print mass media, while as to Article 57 paragraph (1) sub-paragraph f, under Law Number 32/2002, it is indeed allowable to impose sanctions on broadcasting institutions, not by the Indonesian Broadcasting Commission but by the Government (Minister of Communications and Information Technology) after the requirement of *due process of law* has been fulfilled (*vide* Decision Number 005/PUU-I/2003 dated July 28, 2004). Meanwhile, it is impossible to impose sanctions under Article 57 paragraph (1) on the print mass

media because Law Number 40/1999 no longer recognizes a licensing agency for the publication of print mass media, so that the *a quo* article no longer constitutes a necessary norm as it has lost its legal force and *raison d'être*. Moreover, it is inconsistent with Article 28D paragraph (1) of the 1945 Constitution, namely that it creates legal uncertainty and violates the principle of the freedom of expression as regulated in Article 28E paragraph (3) of the 1945 Constitution, and therefore the Petitioners' argument is based on sufficient grounds;

6. Whereas Article 57 paragraph (2) reads "*Further provisions with regard to the procedures and imposition of sanctions as intended in paragraph (1) shall be stipulated by the Indonesian Broadcasting Commission or the Press Council together with the General Elections Commission.*" Since the Court considers that all the Petitioners' arguments concerning Article 56 paragraph (2), paragraph (3), and paragraph (4) as well as Article 57 paragraph (1) of Law Number 42/2008 have been based on sufficient grounds, then it shall also, *mutatis mutandis*, be true of Article 57 paragraph (2) of Law Number 42/2008.

[3.14] Whereas since the reform era, especially since the amendment to the 1945 Constitution, the state has strongly guaranteed the protection of the freedom to express opinions both orally and in writing as a constitutional right of citizens and social institutions. The aforementioned guarantee was initially applied by the revocation of the provisions regarding the requirement to obtain a

Press Publication Business Permit (SIUPP) and all its forms as set forth in Law Number 40 Year 1999 regarding the Press, which was subsequently strengthened by the provisions of Article 28E paragraph (3) of the 1945 Constitution following the amendment which reads, *“Every person shall have the right to the freedom of association and assembly as well as of expression of opinion”*. Therefore, the Court is of the opinion that the provisions of Article 47 paragraph (5), Article 56 paragraph (2), paragraph (3), and paragraph (4) as well as Article 57 paragraph (1) and paragraph (2) of Law Number 42/2008 are inconsistent with the freedom of expression as regulated in Article 28E paragraph (3) of the 1945 Constitution. The three *a quo* articles are also inconsistent with the provisions of Article 28F of the 1945 Constitution, which reads *“Every person shall have the right to communicate and to obtain information to develop him/herself and his/her social environment, and shall have the right to seek, obtain, possess, store, process and impart information by using all available kinds of channels”*;

[3.15] Whereas the Court considers that all the Petitioners’ arguments in the *a quo* petition are reasonable, but this does not mean that if the *a quo* petition is granted there will be a legal vacuum for public protection when any broadcasting institution and print media commit violations of the provisions regarding General Election campaign advertisements as set forth in Article 56 paragraph (2), paragraph (3), and paragraph (4) as well as Article 57 paragraph (1) and paragraph (2) of Law Number 42/2008, because if this happens, Law

Number 40/1999 and Law Number 32/2002 can provide for imposition of sanctions and can still be applied.

4. CONCLUSION

Based on all the foregoing considerations of facts and laws, the Court has come to the following conclusions:

- [4.1] The Court has authority to examine, hear, and decide upon the *a quo* case;
- [4.2] The Petitioners have legal standing to act as petitioners in the *a quo* case;
- [4.3] Article 47 paragraph (5) to the extent it is concerned with the word “news”, Article 56 paragraph (2), paragraph (3), and paragraph (4), as well as Article 57 paragraph (1) and paragraph (2) Law Number 42/2008 create legal uncertainty, injustice, and are inconsistent with the principle of the freedom of expression guaranteed by the 1945 Constitution;
- [4.4] The Petitioners’ arguments are based on sufficient legal grounds and reasons.

5. DECISIONS

Based on the 1945 Constitution of the State of the Republic of Indonesia and in view of Article 56 paragraph (2) and paragraph (3) as well as Article 57 paragraph (1) and paragraph (3) of Law Number 24 Year 2003 regarding the Constitutional Court (State Gazette of the Republic of Indonesia Year 2003 Number 98, Supplement to the State Gazette of the Republic of Indonesia Number 4316).

Decides,

- To grant the Petitioners' petition in its entirety;
- To declare that Article 47 paragraph (5), to the extent it is concerned with the word "news", Article 56 paragraph (2), paragraph (3), and paragraph (4), as well as Article 57 paragraph (1) and paragraph (2) of Law Number 42 Year 2008 regarding the General Elections of the President and Vice President (State Gazette of the Republic of Indonesia Year 2008 Number 176, Supplement to the State Gazette of the Republic of Indonesia Number 4924,) are inconsistent with the 1945 Constitution of the State of the Republic of Indonesia;
- To declare that Article 47 paragraph (5), to the extent it is concerned with the word "news", Article 56 paragraph (2), paragraph (3), and paragraph (4) as well as Article 57 paragraph (1) and paragraph (2) of Law Number

42 Year 2008 regarding the General Elections of the President and Vice President (State Gazette of the Republic of Indonesia Year 2008 Number 176, Supplement to the State Gazette of the Republic of Indonesia Number 4924), do not have any binding legal force;

- To order the proper inclusion of this decision in the Official Gazette of the State of the Republic of Indonesia.

Hence this decision was made in the Consultative Meeting attended by nine Constitutional Court Justices on Thursday dated July the second year two thousand and nine and was pronounced in the Plenary Session open for the public on Friday dated July the third year two thousand and nine by us, nine Constitutional Court Justices, namely Moh. Mahfud MD, as Chairperson and concurrent Member, Abdul Mukthie Fadjar, M. Arsyad Sanusi, Harjono, Achmad Sodiki, Maria Farida Indrati, Maruarar Siahaan, M. Akil Mochtar, and Muhammad Alim respectively as Members, assisted by Makhfud as Substitute Registrar, in the presence of the Petitioners/their Attorneys, the Government or its representative, the People's Legislative Assembly or its representative.

CHIEF JUSTICE,

Sgd.

Moh. Mahfud MD

JUSTICES,

Sgd.
Td Abdul Mukthie Fadjar

Sgd.
M. Arsyad Sanusi

Sgd.
Harjono

Sgd.
Achmad Sodiki

Sgd.
Maria Farida Indrati

Sgd.
Maruarar Siahaan

Sgd.
M. Akil Mochtar

Sgd.
Muhammad Alim

SUBSTITUTE REGISTRAR

Sgd.
Makhfud