



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 166/PUU-XXI/2023**

**Concerning  
Self-Image**

- Petitioner** : **Gugum Ridho Putra**
- Type of Case** : Judicial review of Law Number 7 of 2017 concerning General Elections (Law 7/2017) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Judicial review of Article 1 point 35, Article 274 paragraph (1), Article 280 paragraph (2), Article 281 paragraph (1), Article 286 paragraph (1) and paragraph (2), and Article 299 paragraph (1) of Law 7/2017
- Verdict** : 1. To grant the Petitioner's petition in part  
2. To declare that the phrase "self-image" related to photos/images in Article 1 point 35 of Law Number 7 of 2017 concerning General Elections (State Gazette of the Republic of Indonesia of 2017 Number 182, Supplement to the State Gazette of the Republic of Indonesia Number 6109) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force to the extent that it is not interpreted as "original and most recent photos/images of the participants, which have not been excessively edited/manipulated with the assistance of artificial intelligence technology"  
3. To order the publication of this Decision in the State Gazette of the Republic of Indonesia as appropriate  
4. To dismiss the remaining petition of the Petitioner
- Date of Decision** : Thursday, January 2, 2025
- Overview of Decision** :

The Petitioner is an Indonesian citizen who works daily as a legal service provider (Advocate) focusing on constitutional and election-related issues. The Petitioner submits the

petition *a quo* in his capacity as a Voter in the general election (*Pemilu*), and the Petitioner has been registered in the Permanent Voter List (DPT).

Regarding the Court's authority, because the Petitioner's petition is a judicial review of the constitutionality of a law, *in casu* Article 1 point 35, Article 274 paragraph (1), Article 280 paragraph (2), Article 281 paragraph (1), Article 286 paragraph (1) and paragraph (2), and Article 299 paragraph (1) of Law 7/2017, which is argued to be contrary to Article 22E paragraph (1) and Article 28F of the 1945 Constitution, then the Court has the authority to hear the Petitioner's petition.

Regarding the Petitioner's legal standing, regardless of whether the unconstitutionality of the norms petitioned for review is proven or not, the Court is of the opinion that the Petitioner has the legal standing to act as a Petitioner in submitting the petition *a quo*.

The Petitioner's petition is a judicial review of the constitutionality of a law, *in casu* Article 1 point 35, Article 274 paragraph (1), Article 280 paragraph (2), Article 281 paragraph (1), Article 286 paragraph (1) and paragraph (2), and Article 299 paragraph (1) of Law 7/2017, which is argued to be contrary to Article 22E paragraph (1) and Article 28F of the 1945 Constitution. Therefore, the Court has the authority to hear the Petitioner's petition.

Whereas in the Petitioner's opinion, there are three (3) main issues concerning the judicial review of the provisions of Law 7/2017, namely, *firstly*, the absence of a prohibition against participating in campaigns for the positions of president, vice president, ministers, governors, vice governors, regents, vice regents, mayors, and deputy mayors who have a family relationship or a relationship by affinity up to the third degree, or a marital relationship as husband or wife, even if divorced, with election participants; *secondly*, the absence of a prohibition and sanction for parties other than election participants, campaign organizers and teams, who give money or other materials to influence election organizers and/or voters in a structured, systematic, and massive manner; and *thirdly*, the absence of a prohibition for election participants to use self-image, in the form of photos/images, voices, or combinations of photos/images and voices that are excessively edited and manipulated using digital technology or AI technology as if they were authentic self-images.

Whereas, in the Court's opinion, election organizers cannot interpret the phrase "self-image" flexibly, in which, under certain conditions, the phrase is given a particular meaning, while in other situations it is interpreted differently. This means that the Court's legal considerations affirm that election organizers, *in casu* the General Elections Commission, must act professionally in administering elections in order to deliver high-quality election results. The Petitioner's argument in the petition *a quo* regarding the phrase "self-image," in which the Petitioner raises the issue of the phrase "self-image" related to the prohibition for election participants from displaying photos/images, voices, or combinations of photos/images and voices that are excessively edited and manipulated with the assistance of digital technology and/or AI technology, thus eliminating the originality of the actual photos/images of the concerned election participants, is clearly different from the argument submitted by the Petitioner in Case Number 48/PUU-XVI/2018. Moreover, in that petition, the Petitioner petitioned that the phrase "self-image" be declared unconstitutional, whereas in the petition *a quo*, the Petitioner petitions that the phrase "self-image" be declared conditionally unconstitutional. In relation to this matter, through the decision in the case *a quo*, the Court reinforces, as previously considered in its legal reasoning, that factually some election participants engage in the practice of displaying photos/images that no longer correspond to their actual and factual conditions, and that such practices have the potential to influence voters so that they do not vote according to their true preferences. Consequently, such legal facts demonstrate that the provision of Article 1 point 35 of Law 7/2017, particularly the phrase "self-image" to the extent that it relates to photos/images of election

participants that are excessively edited and manipulated with the assistance of AI technology, creates legal uncertainty and conflicts with the principles of free, honest, and just elections. This means that excessive editing/manipulation may affect the candidate's brand equity by increasing voter knowledge, favorability, perceived quality, and loyalty toward the candidate. False information can undermine the voters' ability to make high-quality decisions, so excessively edited/manipulated self-images not only harm voters individually but also damage the quality of democracy. In the Court's opinion, therefore, the fundamental right of the Petitioner, as a citizen entitled to vote in elections, must be guaranteed to obtain truthful information in elections (whether in presidential elections, legislative elections, or regional head elections), as affirmed in Article 28F of the 1945 Constitution, which states, "Every person has the right to communicate and obtain information to develop their personal and social environment, and has the right to seek, acquire, possess, store, process, and convey information through any available channels." Furthermore, the Petitioner's right to exercise his voting rights in a fair and objective election (the principle of honest elections) is also guaranteed by Article 22E paragraph (1) of the 1945 Constitution, which states, "General elections shall be conducted in a direct, public, free, confidential, honest, and just manner every five years." Accordingly, the Court is of the opinion that the norms of Article 1 point 35 of Law 7/2017, particularly the phrase "self-image" to the extent that it relates to photos/images of election participants, must be conditionally interpreted by requiring election participants to display original and most recent photos/images of them, which have not been excessively edited/manipulated with the assistance of artificial intelligence technology, as fully contained in verdict of the decision *a quo*.

Whereas considering that the provisions of the norm of Article 1 point 35 of Law 7/2017 having been declared conditionally unconstitutional, and that the norm *a quo* is a norm contained in the general provisions which serves as a guideline/reference for other norms in Law 7/2017, the applicability of other norms in the law *a quo* that are affected by the interpretation of the phrase "self-image" of election participants to the extent that the phrase relates to photos/images, must be in accordance with the decision *a quo*.

Whereas in the Court's opinion, the Petitioner's petition argument that the phrase "self-image" in the norm of Article 1 point 35 of Law 7/2017 is contrary to the 1945 Constitution, is legally justifiable. However, because the Court's interpretation of the norm of the Article *a quo* and the meaning asserted by the Petitioner differ, the Petitioner's petition regarding Article 1 point 35 of Law 7/2017 is legally justifiable in part.

Whereas the Petitioner also argues that the provisions of the norm of Article 274 paragraph (1) of Law 7/2017 is contrary to the 1945 Constitution and has no binding legal force to the extent that it is not interpreted to include the phrase "self-image of election participants in the form of serial numbers, the most recent photos/images, voices, combinations of photos/images and voices of candidate pairs, candidates for the DPR (House of Representatives), DPD (Regional Representative Council), Provincial DPRD (Regional People's Representative Assembly), and Regency/Municipal DPRD (Regional People's Representative Assembly) without digital manipulation and/or AI technology, or at the very least requiring election participants to include a clearly readable statement that the serial numbers, the most recent photos/images, voices, combinations of photos/images and voices used are the result of digital manipulation and/or AI technology" in order to ensure the upholding of the principle of honesty in elections.

Regarding the Petitioner's argument, the Court considers that, since the matter relates to the definition of campaigning as considered in the previous legal considerations, in which the phrase "self-image" is part of the definition of campaigning. With respect to the issue *a quo*, to the extent that it concerns photos/images, the phrase has already been given a conditional interpretation in Article 1 point 35 of Law 7/2017 within its general provisions, and the Court has

affirmed that other norms in the law *a quo* that are affected by this interpretation must be applied in accordance with the Court's position *a quo*. As a legal consequence, regarding the norm of Article 274 paragraph (1) of Law 7/2017, if that norm is also affected, there is no further relevance for the Court to examine the alleged unconstitutionality of Article 274 paragraph (1) of Law 7/2017. Moreover, if the Petitioner's expectation were accommodated in Article 274 paragraph (1) of Law 7/2017 regarding campaign materials by adding letter d) as stated in the Petitioner's *petitum* which includes the phrase "self-image" of election participants in the form of serial numbers, the most recent photos/images, voices, combinations of photos/images and voices of candidate pairs, candidates for the DPR, DPD, Provincial DPRD, and Regency/Municipal DPRD without digital manipulation and/or AI technology, this would effectively mean that the Court is formulating a new norm. If such a matter is associated with the planned revision of the election law, the substance petitioned by the Petitioner may be considered by the lawmakers. Pursuant to these legal considerations, the Court is of the opinion that the Petitioner's argument concerning the unconstitutionality of the norm in Article 274 paragraph (1) of Law 7/2017 is legally unjustifiable.

Whereas the Petitioner further argues that the provisions of the norms of Article 280 paragraph (2), Article 281 paragraph (1), and Article 299 paragraph (1) of Law 7/2017 are conditionally unconstitutional on the basis that, in essence, the norms of these articles do not constitute the prohibition for president, vice president, ministers, governors, vice governors, regents, vice regents, mayors, and deputy mayors who have a family relationship or a relationship by affinity up to the third degree, or a marital relationship as husband or wife, even if divorced, to take part in campaigns with election participants. Regarding this argument, since the core issue raised by the Petitioner regarding the three norms under review, namely Article 280 paragraph (2), Article 281 paragraph (1), and Article 299 paragraph (1) of Law 7/2017, is the same, the Court considers the constitutionality of the norms of the three Articles simultaneously.

Regarding the Petitioner's argument, the Court is of the opinion that the principles of elections being direct, public, free, confidential, honest, and just as mandated by the 1945 Constitution are not static concepts, but rather dynamic principles that may be adapted in accordance with social, political, and technological developments. These principles must be understood as general guidelines for the administration of elections, not as a basis for denying public officials their political rights as citizens. Elections must be conducted in a free, honest, and just manner and held periodically every five years, but this does not mean that public officials' participation in election campaigns must be entirely prohibited. Freedom and honesty in elections also encompass the freedom of public officials to express their political views, provided that such expression is carried out ethically and without misuse of authority or state resources. In the Court's opinion, Law 7/2017 has already established mechanisms to prevent public officials from misusing their positions or state facilities during election campaigns. Public officials taking part in election campaigns must comply with laws and regulations, for example, by not using facilities attached to their positions and by taking a leave of absence without government remuneration [*vide* Article 281 paragraph (1) of Law 7/2017]. These provisions are intended to safeguard electoral fairness and integrity within the democratic process.

Whereas the 1945 Constitution guarantees freedom of opinion, expression, and participation in political activities as fundamental rights of citizens, including the president, vice president, ministers, governors, vice governors, regents, vice regents, mayors, and deputy mayors. Therefore, in the Court's opinion, the involvement of public officials in political activities, including election campaigns, is a manifestation of the constitutional rights of citizens, provided that it is carried out in accordance with the applicable provisions. This means that, in the context of campaigning, to the extent that statutory provisions do not prohibit it, such public officials may lawfully be involved. Meanwhile, regarding the prohibition on campaigning for president, vice president, ministers, governors, vice governors, regents, vice regents, mayors, and deputy

mayors who have a family relationship or a relationship by affinity up to the third degree, or a marital relationship as husband or wife, even if divorced, to take part in campaigns with election participants, as wished by the Petitioner, the Court is of the opinion that such a restriction would not only limit the rights of freedom of opinion, expression, and participation in political activities as citizens, but would also be challenging to implement in practice. Tracing such a family relationship or a relationship by affinity up to the third degree, or a marital relationship as husband or wife, even if divorced, for the purpose of determining the eligibility to take part in campaigns with election participants, as argued by the Petitioner, is not an easy task for election organizers and may instead create legal uncertainty. Pursuant to these legal considerations, the Court is of the opinion that the Petitioner's argument concerning the unconstitutionality of the norms of Article 280 paragraph (2), Article 281 paragraph (1), and Article 299 paragraph (1) of Law 7/2017 is legally unjustifiable.

Whereas although the Petitioner in the petition of Case Number 59/PUU-XXII/2024 did not specifically petition the review of the norm of Article 286 paragraph (1) of Law 7/2017, the element of campaign organizers in Article 269 paragraph (1), Article 270 paragraph (1), paragraph (2), and paragraph (3), and Article 271 of Law 7/2017 shares the same constitutional meaning as the element of campaign organizers in Article 286 paragraph (1) of Law 7/2017, namely that the meaning of campaign organizers is to be expanded to include "any person," which is the same as the Petitioner's petition *a quo* that candidate pairs, candidates for the DPR, DPD, Provincial DPRD, and Regency/Municipal DPRD, campaign organizers, and/or campaign teams be expanded to include "other parties." Therefore, even though campaign organizers are part of the legal subjects referred to in the norm of Article 286 paragraph (1) of Law 7/2017, the substance is the same as the meaning of campaign organizers in the norms of Article 269 paragraph (1), Article 270 paragraph (1), paragraph (2), and paragraph (3), and Article 271 of Law 7/2017, in which campaign organizers have been interpreted as including individual persons ("any person"). Thus, in the Court's opinion, the petition to reinterpret the campaign organizers in Article 286 paragraph (1) of Law 7/2017 as also including "other parties" has effectively already been answered through the legal considerations in Constitutional Court Decision Number 59/PUU-XXII/2024. Accordingly, with respect to legal subjects who become other *adressat* in Article 286 paragraph (1) of Law 7/2017, namely candidate pairs, candidates for the DPR, DPD, Provincial DPRD, and Regency/Municipal DPRD, and/or campaign teams, the Court is of the opinion that these may likewise be analogized as already encompassing "individual persons," which in this context includes the legal subject "other parties" as desired by the Petitioner. Pursuant to these legal considerations, the Court is of the opinion that the Petitioner's argument to expand Article 286 paragraph (1) of Law 7/2017 to include "other parties" is legally unjustifiable.

Whereas regarding the Petitioner's argument petitioning that the norm of Article 286 paragraph (2) of Law 7/2017 is declared contrary to the 1945 Constitution and having no binding legal force to the extent that it is not interpreted to include the phrase "and/or to have benefited or gained advantage from the violation" so that Article 286 paragraph (2) would read: "Candidate pairs and candidates for the DPR, DPD, provincial DPRD, and regency/municipal DPRD who are proven to have committed a violation and/or to have benefited or gained advantage from the violation as referred to in paragraph (1), upon recommendation from Indonesian Election Supervisory Body (Badan Pengawas Pemilu or Bawaslu), may be subject to the administrative sanction of disqualification as a Candidate Pair as well as members of the DPR, DPD, provincial DPRD, and regency/municipal DPRD by the General Elections Commission (Komisi Pemilihan Umum or KPU)," the Court considers as follows.

Regarding the Petitioner's argument *a quo*, upon closely examining, it is understood that the Petitioner actually seeks an expansion of the meaning of the norm of Article 286 paragraph (2) of Law 7/2017 by adding the phrase "and/or to have benefited or gained advantage from the

violation” to the provisions of the norm of that Article. The current wording of Article 286 paragraph (2) of Law 7/2017 states, “Candidate pairs and candidates for the DPR, DPD, provincial DPRD, and regency/municipal DPRD who are proven to have committed a violation as referred to in paragraph (1) upon recommendation from Bawaslu, may be subject to the administrative sanction of disqualification as a Candidate Pair as well as members of the DPR, DPD, provincial DPRD, and regency/municipal DPRD by the KPU.” In this regard, the Court is of the opinion that the interpretation petitioned by the Petitioner by adding the phrase “and/or to have benefited or gained advantage from the violation” is an expansion of meaning that could potentially create legal uncertainty, because the definition of “benefited or gained advantage” is inherently relative. In other words, adding the phrase “benefited or gained advantage” to the norm of Article 286 paragraph (2) of Law 7/2017 would actually narrow the *adressat* scope intended under the provision *a quo*. Moreover, in the context of election administration, campaigning is a crucial stage in realizing direct, public, free, confidential, honest, and just elections. Adding the phrase “benefited or gained advantage” to the norm of the Article, which directly relates to the imposition of sanctions, even if only administrative, would render the Court enter the domain of legislative authority. Meanwhile, regarding the norm of the Article, the Court finds no justification for the view that the existing provision violates, among other things, morality, rationality, or any form of intolerable injustice. Pursuant to the above legal considerations, the Court is of the opinion that the Petitioner’s petition argument that the norm of Article 286 paragraph (2) of Law 7/2017 be added with the phrase “and/or to have benefited or gained advantage from the violation” in the norm of the Article *a quo*, is legally unjustifiable.

Pursuant to the foregoing legal considerations, it has been established that the provision of Article 1 point 35 of Law 7/2017, to the extent that it relates to the phrase “self-image” in terms of photos/images of election participants has violated the principles of free, honest, and just elections as stipulated in Article 22E paragraph (1) of the 1945 Constitution, as argued by the Petitioner. However, because the Court’s interpretation regarding the Article *a quo* and the interpretation petitioned by the Petitioner differ, the Petitioner’s petition regarding Article 1 point 35 of Law 7/2017 is legally justifiable in part. Meanwhile, regarding the norms of Article 274 paragraph (1), Article 280 paragraph (2), Article 281 paragraph (1), Article 286 paragraph (1) and paragraph (2), and Article 299 paragraph (1) of Law 7/2017, it has been established that these norms are consistent with the principles of free, honest, and just elections, not as argued by the Petitioner. Therefore, the Petitioner’s argument regarding the norms of these articles is legally unjustifiable.

Accordingly, the Court passes down a decision in which the verdicts were as follows:

1. To grant the Petitioner’s petition in part;
2. To declare that the phrase “self-image” related to photos/images in Article 1 point 35 of Law Number 7 of 2017 concerning General Elections (State Gazette of the Republic of Indonesia of 2017 Number 182, Supplement to the State Gazette of the Republic of Indonesia Number 6109) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force to the extent that it is not interpreted as “original and most recent photos/images of the participants, which have not been excessively edited/manipulated with the assistance of artificial intelligence technology;”
3. To order the publication of this Decision in the State Gazette of the Republic of Indonesia as appropriate;
4. To dismiss the remaining petition of the Petitioner.