

Voting Redo Done Twice for 2020 Regional Head Elections in Labuhan Batu



PILKADA 2020

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To all the loyal readers of Konstitusi Magazine. We are back with a wide variety of interesting information. The "Headline" of June 2021 Edition discusses the decision of the Constitutional Court (MK) on the Election Results Dispute (PHP) petition filed by the Regent of Labuhanbatu, North Sumatra. The Constitutional Court ordered the General Elections Commission (KPU) of the Labuhanbatu Regency to re-vote (PSU) at two polling stations, including TPS 007 and TPS 009 in Bakaran Batu Urban Village, South Rantau Subdistrict, Labuhanbatu. As stated by the Chief Justice of the Constitutional Court, Anwar Usman, in the hearing of the verdict on June 3, 2021.

In June 2021, there was news on the website of the Constitutional Court of the Republic of Indonesia (MKRI) regarding the hearing for the judicial review of Omnibus Law Number 11 of 2020 concerning Job Creation on Thursday, June 10, 2021, in Cases 4, 6, 91, 103, 105, 107/PUU-XVIII/2020. The hearing's agenda is to hear the statements of the House of Representatives (DPR) and the Government. The Plenary Hearing of the Constitutional Court was attended by Chief Justice of the Constitutional Court Anwar Usman and other constitutional judges.

The interesting thing about the news is the Constitutional Justice Saldi Isra said that the hearing on the judicial review of the Job Creation Law was divided into formal judicial review and material judicial review. The hearing of the Job Creation Law which consists of several series, discussed the fulfillment of the formal requirements of establishing the Job Creation Law. It is because of the limited time in accordance with the Constitutional Court's decision when deciding the judicial review of Law of Corruption Eradication Commission/KPK Law. The formal hearing will be settled no later than 60 working days from the start of the hearing.

In addition to the news on the Job Creation Law, various interesting information about the Constitutional Court's hearing from the end of May to June 2021 is presented in the Courtroom rubric. Furthermore, we also feature fixed sections such as Editorial, Opinion, Vox Pop, Action, Action Flash, Classic Literature, and others.

This is the editorial introduction. Finally, we wish you enjoy reading!



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MAIN REPORT

RE-VOTING PROBLEM (AGAIN) FOR THE LABUHANBATU

Regional Head Election The 2020 simultaneous Regional Head Elections have not completely over. At least, some areas still have problems in the implementation of Regional Head Elections. For example, the Regional Head Elections of Sabu Raijua Regency, Yalimo Regency, and Labuhanbatu Regency.

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THE CONSTITUTION AND CITIZENS' CONSTITUTIONAL RIGHTS

SOCIETY 5.0 AND THE ANTHROPOCENTRISM CONSTITUTION

On the one hand, the long leap and lightning speed of technology in the current Industrial Revolution 4.0 shows a high level of civilization of human thought and culture. On the other hand, the rapid technological advancement has created a gap of concern about the disaster that will befall many other humans. It can be seen that many studies have found the potential of decline in the number of humans labor worldwide because they are replaced by advanced technology-based automation. The McKinsey Global Institute research (2019) noted that in 10 countries surveyed, around 107 million working women and 163 million working men will lose their jobs by 2030. The figure emerges from predictions of conditions affected by changes in the implementation of jobs that were previously carried out by humans and later replaced by automated technology. The biggest problem that will arise is how or what the government should do to overcome the socio-economic by replacing the lost workers? Even though the formulation of the solution is almost impossible to answer perfectly.

In order to overcome the concern came the idea called Society 5.0. This idea was born as a response to the development of Industrial Revolution 4.0, which has the potential to degrade the role of humans. This concept is based on two things: (1) human-centered and (2) technology-based. In the end, the objective of this idea is to realize the human condition to feel comfortable, enjoy, and facilitate all of their work by technology to achieve a prosperous life.

For example, advanced technology by utilizing a combination of various data that can anticipate and provide protection for humans from disease outbreaks, natural disasters, or social disasters. Similarly, technology is expected to be able to accelerate business decision-making or state policy.

In other words, the challenges and social problems experienced by humans today and in the future can be solved with innovations and new breakthroughs that exist in the era of the industrial revolution 4.0. The use of the Internet of Things (IoT), artificial intelligence, big data, and others are oriented to humans well-being. So, it's not the other way around, where technology dominates and degrades human dignity. In short, Society 5.0 is an idea with the paradigm of "technology for humans."

The phrase "technology for humans" is suitable, inspiring, and closely related to the paradigm of "law for humans" in the progressive legal ideas that are strongly voiced by Prof. Satjipto Rahardjo, which has been continued

by his students in many places to date. Along with that, the '*magnum opus*' thought of Prof. Tjip was also imprinted that the constitution is an anthropocentric document and human-centered. Yes, the constitution basically places and regulates humans to strengthen their human nature.

Historically, if we trace it back, the constitution is the fruit of a struggle to uphold human rights. Since the history of human rights in France, the United States, Germany, including the United Nations Declaration of Human Rights, and at the domestic level, there are amendments to the 1945 Constitution. All of them place humans at the center. Orderly law, orderly life, protection of rights that necessitate the emergence of state obligations, and the state whose primary duty is to make its people happy are the central message that cannot be denied.

Therefore, the constitution as the supreme law in the context of the state must also be referred to and utilized as much as possible for the benefit of humans, especially Indonesian people, amid the quantum and the onslaught of super-advanced technology that has become necessary. Thus, constitutional-based rules or regulations are needed as an anthropocentric document to respond to the unstoppable pace of technology. Regulations that the state must develop in the context of Society 5.0 must be regulations that have the paradigm of technology for humans. The rapid development of technology must not make

the country become silent, careless, ignorant, or let humans who in this case have the status of citizens just run over to become victims who are affected by technological advances.

Human-centered state regulations in the idea of Society 5.0 are made by requiring ideas and spirits to (1) anticipate the degradation of humans by technology. For this reason, regulations are embodied with an ethical spirit to protect citizens, especially the vulnerable and weak, so as not to be bullied or trampled by strong and dominant parties; (2) provide legal protection equally for the development of technology and its users; (3) strive for equal distribution of infrastructure and internet access for citizens; and (4) expand and continuously encourage citizens to have digital culture and readiness to adapt technology.

At this point, it is necessary to ensure that the constitution as an anthropocentric document is genuinely used as the cornerstone of regulators. Therefore, technology has the final goal to make people happy, and not the other way around, by becoming a disaster and an unavoidable threat that is less than an inch away from crushing the human dignity and status of Indonesian people. Long Live the Constitution!





PROF MOCHTAR

I D.G.Palguna

*“Law without power is a chimera;
Power without law is tyranny.”*

Mochtar Kusumaatmadja.



It is not too hard to imagine what happens when there are high seas between the islands of Java and Kalimantan—or among any of the islands in the archipelago that are more than 6 miles apart. It can be assured that foreign ships, including warships, can “move around” freely. This was more or less the case before December 13, 1957, when the 1939 *Territoriale Zee en Maritime Kringen Ordonnantie* took effect. Article 1 paragraph (1) this ordinance stipulates that each island in Indonesia has a territorial sea of three miles wide. This means that between Java and Kalimantan, which is 649 miles away, lies the open sea. The following stories are some of the fragments that portray this situation and at the same time become the starting point which then fundamentally not only changes the direction of history and the “face” of this country but also becomes an opening door for creating new rules of international law, especially international law of the sea.

The incident took place in October 1957. It is said that the Minister of State for Veterans Affairs Chairul Saleh, who is well known for his explosive and outspoken nature, “gets grumpy and

angry” at Mochtar Kusumaatmadja. He said, “Where is the result from the Committee. It’s nothing. They are really slow.” The Committee, referred to by the National Figure, born in Sawahlunto, West Sumatra, is the Drafting Committee of Law on the Territorial Sea and Maritime Environment. Prime Minister Ali Sastroamidjojo formed this Committee in 1956. The Committee’s duty was to establish a draft law on Indonesian territorial seas to replace the Dutch Law, *Territoriale Zee en Maritime Kringen Ordonnantie* 1939. Mochtar Kusumaatmadja, who was still working at the Bureau of Foreign Exchange and Trading at the time, is one of the members of the said Committee. He became a member because he was assigned, specifically ordered, by Chairul Saleh. However, until the reign of Prime Minister Ali Sastroamidjojo “volume” II ended, this Committee had not yet successfully completed the mandate.

For this reason, Chairul Saleh was angry. Chairul Saleh’s revolutionary spirit and nationalism, whose full name is Chairul Saleh Dt. Paduko Radjo was annoyed to see Dutch ships move freely in the Java Sea waters, which was seen as a serious threat to Indonesian sovereignty. “How come these Dutch warships are moving back and forth in the Java Sea. Can’t this Java Sea be used as an inland sea?” Of course, it was denied by Mochtar Kusumaatmadja. Mochtar said, “You can’t. It is against international law.

Chairul Saleh responded and said, “Just make it happen. Don’t say that you can’t. You are still young, but the way you speak is not revolutionary. In the past, during the proclamation, if we listened to people who were too juridical, the proclamation would not happen. You have to change the way you think. Anyway, it must be possible.”

Chairul Saleh said that with a harsh tone.

Mochtar Kusumaatmadja can’t stop thinking about the “threat.” However, on the other hand, he considered Chairul Saleh’s words as a challenge. Thus, Mochtar took a leave of absence from the office where he worked, the Bureau of Foreign Exchange and Trading, to develop the concept that Chairul Saleh wanted. His leave was granted. Mochtar went to Bandung. In Bandung, he “isolated” himself to explore his best abilities as a law scholar to answer the Minister of State for Veterans Affairs challenge. In Bandung, the historical conception, which became known as the Archipelagic State Conception, was born. The essential point of this concept is that the sea around, between, and connecting the islands of the archipelago, irrespective of their breadth and dimensions, form part of the internal waters of the state and are subject to its exclusive sovereignty or jurisdiction of Indonesia. His rationale is very reasonable because the starting point is the nature of Indonesia as an archipelagic state.

Mochtar later presented this conception and discussed it at the cabinet meeting of Prime Minister Djuanda, who succeeded Ali Sastroamidjojo, in Pejambon in December 1957. Long story short, the concept was accepted and later became the basis for the birth of a historic declaration dated December 13, 1957, better known as the Djuanda Declaration. The Declaration, which has the official name “the Government’s Announcement on the Waters of the State of the Republic of Indonesia,” contained several fundamental conceptions (which at that time it was actually still a unilateral claim by Indonesia). First, this declaration emphasizes that Indonesia is

geographically an archipelagic state consisting of thousands of islands with their own characteristics. For the sake of territorial integrity and to protect its natural wealth, the entire Indonesian archipelago and the sea located in between shall be regarded as a single unit. Therefore, the determination of the territorial sea baseline stated in Article 1 paragraph (1) *Territoriale Zee en Maritime Kringen Ordonnantie* 1939 (*Staatsblad* 1939 No. 442) is no longer suitable because this ordinance divides the Indonesian land into separate parts and has its own territorial sea.

Second, based on the above considerations, the declaration then goes into the main point, that the waters around, between, and connecting the islands that are part of the Indonesian State, irrespective of their breadth and dimensions, are a natural part of the Indonesian land and form part of the internal waters of the state, and are subject to its exclusive sovereignty of Indonesia. The fundamental consequence of this point is that the waters or seas between or connecting the Indonesian islands, which previously contained the high seas, have changed (precisely claimed) into internal waters through this declaration.

Third, the declaration states that innocent passage of foreign ships in Indonesia's inland waters is guaranteed as long as it does not conflict with Indonesia's sovereignty and safety. This point is like a "reward" and Indonesia's guarantee to countries whose ships have been sailing freely through the sea, which was initially the high seas (Therefore, it is not subject to the sovereignty of any country) and has now turned into Indonesian inland waters. In other words, the message that is trying to be conveyed is that these countries do not need to worry if their ships pass in Indonesia's inland waters as long as they strictly comply with the provisions of the right of innocent passage.

Fourth, the declaration also contains other essential matters, including the breadth and dimensions of the territorial sea and how to measure it. It is said that the territorial sea baseline is 12 miles and is measured from the line connecting the outermost points of the outermost islands of Indonesia. This baseline is known as the straight baseline method. Before

the use, through this declaration, the baseline method has been recognized and confirmed through the popular decision of the International Court of Justice, namely the Anglo-Norwegian Fisheries Case in 1951.

As expected earlier, this declaration was not only largely protested but strongly opposed, especially by major maritime countries such as the United States, Britain, Australia, France, New Zealand, and the Netherlands. It is not just protested and opposed, especially in association with drawing the straight baseline in determining or measuring the breadth and dimensions of the territorial sea. There is even one ridiculous comment (but it can also be considered an "acknowledgment") that Indonesia dared to take such a step because they just had a law expert who graduated from Yale University. Thus, he knows that there is a court's decision on how to draw such a baseline. The legal expert in question is Mochtar Kusumaatmadja.

Fortunately, Indonesia did not "choose" to be afraid of all these protests and opposition. On the other hand, the Djuanda Declaration, which was the starting point for the conception of the Archipelago Insight, was actually followed by the promulgation of Law Number 4/Prp/1960 on Indonesian Waters, which dated February 18, 1960. This is also the starting point that marks 25 years of Indonesia's struggle in the Law of the Sea field until the acceptance of the Concept of Archipelago Insight by the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Suppose Indonesia chooses to be afraid of the protests and opposition, the map of Indonesia will be very different, and the direction of the development of international law will be the same, especially international law of the sea. It is very possible that the world will not recognize the concept of an archipelago, an archipelagic state, the concept of archipelagic waters, the concept of archipelagic sea lane passage. Therefore, the statement of the Senior Diplomat and Director General of International Law and International Treaties at the Ministry of Foreign Affairs, Damos Dumoli Agusman, is true, that through Mochtar Kusumaatmadja, Indonesia created international law. Through the conception of an archipelagic state, Indonesia has also

succeeded in proving that law creates power, not the other way around. It's no exaggeration if Professor Yusril Ihza Mahendra, the former Minister of Justice and Minister of the State Secretary, said that Professor Mochtar Kusumaatmadja's service is so great that the state could not repay him back.

Some of the stories at the beginning of this article were retold by my friend, Mr. Winarno Yudho, via WhatsApp by citing the writings from M.F. Mukthi, only a few moments after Prof Mochtar—as the academic community of Padjadjaran University called Professor Mochtar Kusumaatmadja—passed away on June 6, 2021. Others are stories from Prof. Mochtar himself, both of which he wrote through his books on the Law of the Sea and which he told directly to us, the students of the 1990 Master's program at Padjadjaran University, Bandung. At that time, Prof. Mochtar actually did not teach International Maritime Law but Philosophy of Law. However, we were the ones who "forced" him to tell about the history of the birth of the Archipelagic Concept.

There's one thing that I'm curious about and never get the answer. My senior at Padjadjaran University (Unpad) once said that Prof Mochtar might be the only Indonesian close to becoming a judge at the International Court of Justice and UN's main judicial organ. However, unfortunately, President Soeharto did not allow him because he was needed as a foreign minister. When we enjoyed the subject of Philosophy of Law taught by Prof Mochtar, suddenly UN Secretary General Xavier Perez de Cuellar asked him to become the Chairman of the post-Gulf War Iraq-Kuwait Demarcation Commission (1991). After that, Prof Mochtar said his goodbye to us, students of the Postgraduate Masters Program at Unpad, who studied International Law. I'm curious about the "rumors." Therefore, I dared myself to ask Prof Mochtar directly when we left the lecture hall together. He just smiled and said, "who said that?"

Prof Mochtar is very humble. His humility shows his greatness. I remember the words of the lecturer, who is also a poet, Ralph Waldo Emerson, "**A great man is always willing to be little.**" Goodbye Professor. May your service for the homeland, the nation, and humanity takes you to the best place by His side. Amen. **Swaha. ■**

RE-VOTING (PSU) VOLUME TWO OF LABUHANBATU REGIONAL HEAD ELECTION

The 2020 Simultaneous Regional Head Elections (Pilkada) have not completely over. At least, some regions still have problems in the implementation of the Regional Head Elections. For example, the Regional Head Elections of Sabu Raijua Regency, Yalimo Regency, and Labuhanbatu Regency.

In the case of the Regional Head Election of Sabu Raijua Regency, it is proven that Orient P. Riwu Kore has dual citizenship, Indonesia and the United States. The Constitutional Court in Decision Number 135/PHP.BUP-XIX/2021 disqualified the candidate pair Orient Patriot Pair Riwu Kore and Thobias Uly. The Court ordered a re-vote (PSU).

Likewise with the Regional Head Election of Yalimo Regency. The Court argued that the Regent Candidate number 1 of Yalimo, Erdi Dabi, no longer meets the requirements as a Regent Candidate. The verdict of the Jayapura District Court Number 500/Pid.Sus/2020/PN.Jap dated 18 February 2021; it was strictly stated that Erdi Dabi was legally and convincingly proven to have committed a criminal act by deliberately violating the provisions of Article 311 paragraph (1), paragraph (2), and paragraph (5) of Law Number 22 of 2009 on Road Traffic and Transportation. As a result, in Decision Number 145/PHP.BUP-XIX/2021, which read on Tuesday (29/6/2021), the Court disqualified Erdi Dabi. The Court also ordered to hold a re-vote. The

implementation of Re-voting (PSU) Volume Two is within a grace period of 120 working days after the decision is pronounced.

Dispute of Old Faces

The Regent and Deputy Regent Election of Labuhanbatu in 2020 had five candidate pairs, including H. Tigor Panusunan Siregar and H. Idlinsah Harahap, H. Erik Adtrada Ritonga and Hj. Ellya Rosa Siregar, H. Andi Suhaimi Dalimunthe and Faizal Amri Siregar, Abd. Roni and Ahmad Jais, Suhari Pane and H. Irwan Indra. In the previous election, namely the 2015 Regional Head Elections, Labuhanbatu Regency was also one of the regions holding the 2015 Simultaneous Regional Head Elections.

The 2015 and 2020 Regional Head Elections of Labuhanbatu have similarities in the number of candidate pairs, which have five candidate pairs. Furthermore, the 2020 Labuhanbatu Regional Head Election candidates are some old faces who previously competed in the 2015 Labuhanbatu Regional Head Elections. There are five candidate pairs in the 2015 Labuhanbatu Regional Head Elections: H. Zainal

Arifin Dalimunthe and Wira Abdi, Mahini Rizal and Waluyo, H. Pangonal Harahap and H. Andi Suhaimi Dalimunthe, Suhari and Ihsan Rambe, H. Tigor Panusunan Siregar and H. Erik Adtrada Ritonga. Likewise, the petitioner for the election dispute in the Constitutional Court also consisted of old faces. For example, petition Number 58/PHP.BUPXIX/2021 filed by candidate pair H. Erik Adtrada Ritonga and Hj. Ellya Rosa Siregar. In the 2015 Regent and Deputy Regent Election, the candidate pair H. Tigor Panusunan Siregar and H. Erik Adtrada Ritonga were the petitioners for the dispute in case Number 114/PHP. BUP-XIV/2016.

Based on the Labuhanbatu General Elections Commission (KPU) decision, the candidate pair H. Andi Suhaimi Dalimunthe and Faizal Amri Siregar won the most votes (88,130 votes) in the 2020 Regent and Deputy Regent Election of Labuhanbatu. Meanwhile, in the 2015 Regent and Deputy Regent Election of Labuhanbatu, the winner of the most votes was the candidate pair H. Pangonal Harahap and H. Andi Suhaimi Dalimunthe (60.176 votes).

Re-voting Volume One

The voting for the 2020 Regent and Deputy Regent Election of Labuhanbatu was held on December 9, 2020. The Labuhanbatu General Elections Commission (KPU) revealed that Candidate Pair No 1 H. Tigor Panusunan Siregar and H. Idlinsah Harahap obtained 19,814 votes, Candidate Pair No 2 H. Erik Adtrada Ritonga and Hj. Ellya Rosa Siregar received 87,292 votes, Candidate Pair No 3 H. Andi Suhaimi Dalimunthe and Faizal Amri Siregar received 88,130 votes, Candidate Pair No 4 Abd. Roni and Ahmad Jais received 28,726 votes, and Candidate Pair No 5 Suhari Pane and H. Irwan Indra received 12,909 votes.

Candidate Pair No 3 H. Andi Suhaimi Dalimunthe and Faizal Amri Siregar (Andi-Faizal) got the most votes from the other four candidate pairs. Candidate pair Andi-Faizal obtained more votes of 838 than candidate pair Erik-Ellya.

The results of the 2020 Labuhanbatu Regent Election sparked a dispute. Candidate pair Erik-Ellya did not accept the election results determined by the KPU.

Candidate pair Erik-Ellya filed a petition to the Constitutional Court on December 18, 2020. The Registrar's Office of the Constitutional Court registered this petition with Number 58/PHP.BUP-XIX/2021. Erik-Ellya requested the Constitutional Court to annul the Labuhanbatu Regency KPU Decree Number 176/PL.026-Kpt/1210/KPU-Kab/XII/2020 on the Certification of the Vote Count Results Recapitulation and the 2020 Election Results of the Regent and Deputy Regent of Labuhanbatu, dated December 16, 2020. In the main point of the petition, among Erik-Ellya's arguments, the most significant is regarding a large number of voters in the Additional Final Voters List (DPTb) in South

Rantau Subdistrict, North Rantau Subdistrict, Pangkatan Subdistrict, and Bilah Hilir Subdistrict.

As a result, in the promulgation hearing for the verdict on Monday (22/03/2021), the Court ordered the General Elections Commission (KPU) of Labuhanbatu to hold a re-vote at nine polling stations. The nine polling stations (TPS) are TPS 005, TPS 007, TPS 009, TPS 010, and TPS 013 in Bakaran Batu Urban Village, South Rantau Subdistrict; TPS 009 and TPS 017 in Siringoringo Urban Village, North Rantau Subdistrict; TPS 003 in Pangkatan Urban Village, Pangkatan Subdistrict, and TPS 014 in Negeri Lama Urban Village, Bilah Hilir Subdistrict.

Re-voting Volume Two

As explained above, the first round of the Labuhanbatu Regent Election results showed that the candidate pair Andi-Faizal obtained 88,130 votes. Meanwhile, the candidate pair Erik-Ellya received 87,292 votes. Andi-Faizal won 838 votes compared to Erik-Ellya. The results are different after the re-vote. From the re-vote results, Erik-Ellya received 88,493 votes. Meanwhile, Andi-Faizal obtained 88,183 votes. Erik-Ellya won 310 votes from Andi-Faizal.

The results of the first round of the Regent Election are questioned by the candidate pair Erik-Ellya as Petitioner for the dispute in the Constitutional Court. In this case, candidate pair H. Andi Suhaimi Dalimunthe and Faizal Amri Siregar (Andi-Faizal) are Relevant Party.

The re-voting of the Labuhanbatu Regent election was held on April 24, 2021, at nine polling stations. The results of the re-vote were questioned again. After the re-voting volume one results, Andi-Faizal, who previously became the Relevant Party, changed their

position as Petitioner. Candidate pair Erik-Ellya, who previously became the Petitioner, changed their position as the Relevant Party. Sometimes such things happen in Election disputes.

Candidate pair Andi-Faizal objected to the re-vote count results determined by the General Election Commissions of Labuhanbatu Regency Number 64/PL.02.6-Kpt/1210/KPU-Kab/IV/2021 on Determination of Recapitulation of Vote Count Results after Constitutional Court Decision Number 58/PHP.BUP-XIX/2021 In the 2020 Regents and Deputy Regent Election of Labuhanbatu on April 27, 2021. The petition of candidate pair Andi-Faizal was submitted to the Registrar of Constitutional Court on April 29, 2021, at 12.02 WIB. The Registrar of the Constitutional Court registered this petition with Number 141/PHP.BUP-XIX/2021

As a result, the Court pronounced the verdict on Thursday (03/06/2021) again regarding the revote decision. The Court ordered the General Election Commissions of Labuhanbatu Regency to hold a re-vote in two polling stations, including TPS 007 and TPS 009 in Bakaran Batu Urban Village, South Rantau Subdistrict. The re-vote is carried out within a maximum of 14 working days from the date of pronouncing the Court's Decision and report it to the Court within seven working days after the re-vote is completed.

Hopefully, the re-voting volume two in the Regent Election of Labuhanbatu will end all disputes. The re-voting volume two takes place democratically in accordance with the constitutional principle of "direct, general, free, confidential, honest, and fair," as the realization of people's sovereignty in determining local government leaders. ■

NUR ROSIHAN ANAV

THE RE-VOTE PROBLEMS (AGAIN) OF THE LABUHANBATU REGIONAL HEAD ELECTION



Yusril Ihza Mahendra as the Petitioner's attorney attended the Virtual Hearing of the Dispute Case for the Regent Election of the Labuhanbatu, Wednesday (19/05) in the Court's Meeting Room. Photo: Public Relations/Ifa.

The Court ordered the General Election Commissions of Labuhanbatu Regency to hold re-vote of the 2020 Regent and Deputy Regent Election of Labuhanbatu Regency at two polling stations, including TPS 007 and TPS 009 in Bakaran

Batu Urban Village, South Rantau Subdistrict. The re-vote is carried out within a maximum of 14 working days from the date of pronouncing the Court's Decision and report it to the Court within seven working days after the re-vote is completed. This is the ruling of the Court's Decision on Case Number 141/PHP.

BUPXIX/2021 was read by the Chief Justice of the Constitutional Court, Anwar Usman, in the ruling hearing on Thursday (3/6/2021).

On March 22, 2021, the Constitutional Court ruling Decision Number 58/PHP.BUP-XIX/2021 on the Election Results Dispute (PHP) case for the Regent of Labuhanbatu,

North Sumatra Province in 2020, which was petitioned by the Candidate Pair Erik Adtrada Ritonga and Ellya Rosa Siregar (Erik-Ellya). In the verdict, the Court ordered a re-vote regarding

votes acquired by each pair of candidates were at nine polling stations, including TPS 005, TPS 007, TPS 009, TPS 010, and TPS 013 in Bakaran Batu Urban Village, South Rantau Subdistrict; TPS 009 and TPS 017 in Siringoringo Urban Village, North Rantau Subdistrict; TPS 003 in Pangkatan Urban Village, Pangkatan Subdistrict, and TPS 014 in Negeri Lama Urban Village, Bilah Hilir Subdistrict.

Based on the petition read by Yusril Ihza Mahendra as the legal counsel of Candidate Pair No 3 Andi Suhaimi Dalimunthe and Faizal Amri (the Petitioner) for the 2020 Regent and Deputy Regent of Labuhanbatu Regency said the re-voting had been held on April 24, 2021, at the designated polling stations. However, his client thinks that the re-voting held by the General Election Commission of Labuhanbatu Regency (the Respondent) was not in accordance with or contrary to the applicable laws and regulations of Article 112 paragraph (2) letter b of Law 10/2016.

In the preliminary hearing held by the Constitutional Court on Wednesday (19/5/2021), the Petitioner requested the annulment of the General Election Commission of Labuhanbatu Regency Decision Number 64/PL.02.6-Kpt/1210/KPU-Kab/IV/2021 on Determination of the Recapitulation of Vote Count Results for the 2020 Regent and Deputy Regent Elections of Labuhanbatu dated April 27, 2021, at 12.15 WIB.

The reason is that the Respondent provides an opportunity for voters who have changed their

domicile and voters who are not domiciled in the intended electoral area. Furthermore, at TPS 014 Negeri Lama Urban Village, for example, Voting Organizer Group (KPPS) provides an opportunity for voters who have National Identity number (NIK) listed differently on the e-KTP (Electronic Identity Cards) and Family Card (KK) with the NIK on C Model form of KWK-Notification.

Concerning some of the violations that occurred, The Petitioners requested that the Court ordered the General Election Commission of Labuhanbatu Regency to hold a re-vote at seven polling stations in Labuhanbatu Regency, including TPS 5, TPS 9, and TPS 10 in Bakaran Batu Urban Village, South Rantau Subdistrict; TPS 9 and TPS 17 in Siringo-ringo Urban Village, North Rantau Subdistrict; and TPS 14 Negeri Lama Urban Village, Bilah Hilir Subdistrict, Labuhanbatu Regency.

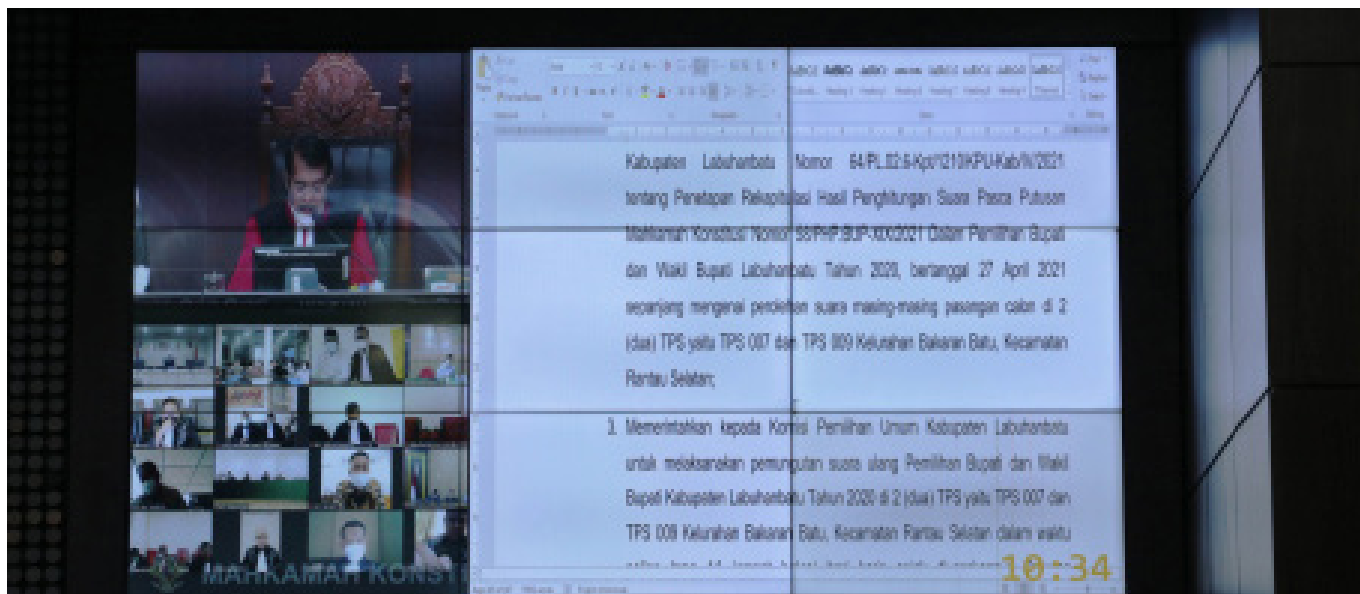
Postponement of Administrative Action

After holding the re-vote at nine polling stations in several sub-districts, Respondent directly determined the Candidate Pair for Regent and Deputy Regent Labuhanbatu No 2 Erik Adtrada Ritonga and Ellya Rosa Siregar as the Elected Candidate Pair for Regent and Deputy Regent in the 2020 Labuhanbatu Regent and Deputy Regent Election. This determination is stipulated in the General Election Commission of Labuhanbatu Regency Decision Number 70/PL.02.6-Kpt/1210/KPU-Kab/V/2021 issued on May 2, 2021. Due to legal facts, the Constitutional Court Panel of Judges issued Decree No 141/PHP.BUP-XIX/2021, which was read out on Friday (21/5/2021) in the Plenary Court Room.

“Determining, ordering all relevant agencies to postpone the implementation of the stages and



Ali Nurdin as the attorney for the General Election Commission of Labuhanbatu Regency in the second hearing of the Election Results Dispute (PHP) case for the Regent of Labuhanbatu, which was held on Friday (21/5). Photo: Public Relations/Teguh



The Constitutional Court held an online hearing for the promulgation hearing for the verdict of the Election Results Dispute (PHP) for the Regent of Labuhanbatu on Thursday (03/06) in the Court's Meeting Room. Photo: Public Relations/Hendy

all administrative actions or other actions after the determination of re-voting results recapitulation of Labuhanbatu Regency based on the General Election Commission of Labuhanbatu Regency Decision Number 64/PL and seven onwards, the General Election Commission of Regency IV/2021 on Determination of the Recapitulation of Vote Count Results after the Decision of the Constitutional Court Number 58/PHP.BUPXIX/2021 in the 2021 Regent and Deputy Regent election of Labuhanbatu on April 27, 2021, until a decision, is made by Court on the a quo petition, which has permanent legal force,” said Constitutional Justice Enny Nurbaningsih alongside Constitutional Justices Saldi Isra and Daniel Yusmic P. Foekh.

The use of Family Card

Constitutional Court also held a follow-up hearing with the agenda of hearing the Respondent's statement on Case Number 141/PHP.BUP-XIX/2021. Ali Nurdin, as the Respondent's attorney, denied

all the arguments regarding the violation of the re-voting held at nine polling stations, which had been decided in Decision Number 58/PHP.BUP-XIX/2021 as stated by the Petitioner. In his statement, Nurdin mentioned, among others, the problems of voters' administrative completeness at TPS 13 Bakaran Batu Urban Village. The respondent considered that the argument was baseless because the Petitioner could not explain the allegations of misconduct and fraud made by the Respondent. In addition, the Respondent has never received any recommendation from the General Election Supervisory Body (Bawaslu of Labuhanbatu Regency) as the institution that has the authority to handle violations in the election, as argued by the Petitioners.

The Petitioner's argument includes a table by placing Siringo-Ringo Urban Village as part of the South Rantau Subdistrict and mentions the Negeri Lama Village, Bilah Hilir Subdistrict. According to Respondent, this is a groundless

argument because Siringo-Ringo village does not exist in the South Rantau Subdistrict. Likewise, with the domain of the Negeri Lama Village, Bilah Hilir Subdistrict because the existing form of government is an Urban Village and not a village. Thus, the name of the village referred to by the Petitioner is not clear.

In this second hearing, the Respondent also denied the allegation of violation regarding administration in the election by KPPS officers, which allowed voters not to complete administrative documents for the elections as stipulated in Article 138 of the Election Law. The Respondent stated that such violations should be directed to the Bawaslu of Labuhanbatu Regency and not the Constitutional Court.

Ali Nurdin said that there were voters who used a family card on the re-voting that has been guided by the Respondent based on the results of supervision from Bawaslu on April 23, 2021, just before the re-voting.

This explanation is in accordance with Bawaslu of Republic of Indonesia

Circular dated December 8, 2020, on the Implementation of Supervision of the Voting Stage and Vote Counting in the 2020 Simultaneous Elections of Governor and Deputy Governor, Regent and Deputy Regent, Mayor and Deputy Mayor. On the letter e point 12 of the circular letter, it is mentioned that in the case of voters registered in the Permanent Voters List (DPT) who are unable to show Model C Notification, e-KTP, and/or identification papers, the supervisors from the TPS provide suggestions for improvement to KPPS by ensuring that the voter factually lives in the local neighborhood/ward (RT/RW) and is proven by a family card.

In line with the statement of the Respondent, Bawaslu of Labuhanbatu Regency, Parulian Silaban justifies the incident of using the family cards by voters at several polling stations. One of them at TPS 007 in Bakaran Batu Urban Village stated that five voters exercised their right to vote by bringing C form of Re-Notice and identification in the form of a family

card without showing an e-KTP. Based on the results of Bawaslu's observation, the supervisor at the TPS on behalf of Erik Karab stated verbally to the Chairman of KPPS on the regulations regarding the permission of voters to use family cards. Thus, the Chairman of the KPPS, after coordinating with the General Elections Commission of Labuhanbatu Regency, allows voters to cast their ballots. The same thing happened at TPS 009 Siringo-Ringo Urban Village, North Rantau Subdistrict. The reason is that at these polling stations, voters only bring a Family Card (KK) during the election. Therefore, after KPPS coordinated with the Election Supervisory Committee (Panwaslu) of North Rantau Subdistrict and also coordinated with the witnesses, the voters with the serial number Permanent Voters List (DPT) 144 could exercise their voting rights in accordance with the instructions of the General Elections Commission of Labuhanbatu Regency.

Obeying the Population Administration Policy

In accordance with the provisions of Article 56 paragraph (1) of Law Number 10 of 2016 (Law 10/2016) on the Voting Rights Act. The voting right is given to citizens who are 17 years old or have been married and have the right to vote. Article 57 of Law 10/2016 also mentions that every citizen must be registered as a voter to use the voting right. Meanwhile, related to the domicile requirements, which become the important requirement for voters, it has also been regulated in the Regulation of General Elections Commission Number 19 of 2019

Article 5 paragraph (2) letter d, which essentially stated that voters must be domiciled in the electoral district and proven by an e-KTP (Electronic Identity Card). Bambang Eka Cahya Widodo explained this statement as an expert presented by the Petitioner in the third hearing of the Election Results Dispute (PHP) case for the 2020 Regent and Deputy



Constitutional Justice Enny Nurbaningsih showed the evidence of a circular letter to one of the Labuhanbatu Bawaslu representatives in the hearing testimony of experts and witnesses for the Election Results Dispute (PHP) petition of Labuhanbatu on Thursday (27/5). Public Relations/ Bayu.

Regent of Labuhanbatu after the Constitutional Court's decision on Thursday (27/5/2021).

Bambang emphasized that based on the existing regulations, voters who have changed their domicile no longer qualify as voters and cannot exercise their voting rights in the re-vote. Bambang also mentioned that the Respondent should have examined the DPT used in the re-vote, including searching the voters who had died, changed domicile, and unidentified. Thus, voters who were not domiciled in the TPS area but cast their vote could be carefully considered.

Bambang clearly stated in Article 56 paragraph (3) of Law 10/2016 that voters should be registered at the polling station which address is in accordance with their electronic ID card. Suppose it does not match the address on the e-KTP. In that case, an identification paper is required that states the voter's domicile from the village head to encourage voters to obey the population administration policy. Thus, the political rights of voters are fulfilled, and at the same time, the domicile status of the person concerned becomes clear. However, in reality, many citizens neglect this obligation, thereby changing domicile is not always followed by a change of population administration.

Bambang explained, "The inconsistency between the address on the electronic ID card and the address of the real domicile can lead to rejection regarding the citizen's right to vote because it is contrary to the Article 5 paragraph (2) letter

8 d that voters must be domiciled in the electoral district which proven by an electronic Identity Card."

In addition to these rules, the mandatory order to bring the electronic ID card (e-KTP) by the Department of Population and Civil Registration has a strategic function in voting at polling stations. The electronic ID card and the certificate of recording the electronic ID card are identities that contain elements such as name, gender, place of birth, date of birth, address, and a picture of the holder. Therefore, the electronic ID card can be a tool to verify a person referred to in the voter invitation card. Bambang emphasized that the electronic ID card can also be a tool to screen someone who has the right to vote at the polling station mentioned in the invitation that is brought to the polling station.

Bambang said, "If it's only based on the notification letter of Model C form of KWK-Notification, there are several limitations that must be anticipated to prevent fraud. It's not necessarily that the Model C form of KWK-Notification actually reaches those who have the right to vote. It may fall into the hands of other parties who do not have the right to vote and are misused for certain interests or fraud. Therefore, the verification process for voters who come to polling stations (TPS) must be carried out by checking the consistency of Model C form of KWK-Notification and Model C5-KWK with DPT or DPPH, and an electronic ID card, or a certificate of recording an electronic ID card

from the Department of Population and Civil Registration."

The Use of Family Card is invalid

"The Court ordered the General Election Commission of Labuhanbatu Regency to hold re-vote for the 2020 Regent and Deputy Regent of Labuhanbatu Regency at two polling stations, including TPS 007 and TPS 009 in Bakaran Batu Urban Village, South Rantau Subdistrict within a maximum period of 14 working days from the date of pronouncing the Court's Decision and report it to the Court within seven working days after the re-vote is completed," said Chief Justice of the Constitutional Court Anwar Usman when reading the verdict of case Number 141/PHP. BUP-XIX/2021 on Thursday (3/6/2021) in the Plenary Meeting Room of the Constitutional Court.

In the Court's legal considerations, Constitutional Justice Enny Nurbaningsih stated that the certainty of the identity of the voter was not sufficient and could not be held accountable by only using an identity document in the form of a family card, even though the name on the family card is in the Permanent Voter List (DPT). However, this has the potential that, in reality, voters who do not have the right can misuse it. Therefore, in order to obtain pure and accountable voting results, re-voting must be carried out at TPS 007 and TPS 009 in Bakaran Batu Urban Village, South Rantau Subdistrict, and taking into account the significant factors of votes acquired by the parties. ■

PENULIS : SRI PUJIANTI



PENGUMUMAN

Pemberlakukan Protokol Kesehatan secara Ketat di Gedung Mahkamah Konstitusi selama Pandemi Covid-19:

1. Setiap Tamu wajib menunjukkan surat keterangan *swab antigen* dengan hasil **negatif** yg masa berlaku **3 hari**
2. Wajib menggunakan **masker** dan *face shield* selama waktu kunjungan
3. Kondisi kesehatan baik dan suhu badan **tidak lebih dari 37,3** derajat celsius
4. Waktu audiensi dibatasi paling lama **30 menit**



Satgas Covid-19 Mahkamah Konstitusi
#IngatProtokolKesehatan
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ENTREPRENEUR CHALLENGES 1945 CONSTITUTION WITH CONCERNS OVER ENVIRONMENTAL DAMAGE

ENTREPRENEUR Muhamad Taufiq challenges Article 33 paragraph (3) and Article 37 of the 1945 Constitution to the Constitutional Court (MK). The preliminary hearing of the case registered Number 18/PUU-XIX/2021 was chaired by Constitutional Justice Wahiduddin Adams, alongside Constitutional Justice Suhartoyo and Daniel Yusmic P. Foekh as judges members of the Panel Hearing.

Petitioner attended the hearing without any legal counsel. The petitioner argued that Article 33 paragraph (3) of the 1945 Constitution, which reads, “the greatest benefit of the people” and “the land and the waters, as well as the natural riches therein, are to be controlled by the state” and Article 37 of the 1945 Constitution, which reads “Proposals to amend articles of the Constitution can be put on the agenda” violate the First, Second, and Fifth Pancasila Principles.

According to Taufiq, the articles do not apply to environmental crimes in Indonesia. The Petitioner considers this crime to be more disturbing because Article 33 and Article 37 of the 1945 Constitution do not specify the legal punishments that can be imposed on the perpetrators of the environmental crime.

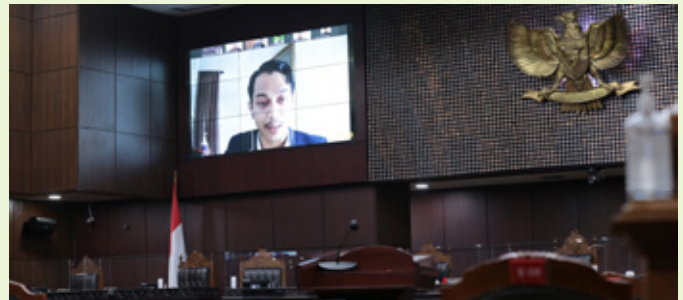
Taufiq, who attended the virtual hearing, said, “the articles cannot apply to cases such as actions that destroy the environment on a large scale in the name of prosperity, activities that cause pollution, waste that destroys the balance of nature for the benefit of groups, which trigger natural disasters.” (Sri Pujianti)

ELECTION ORGANIZERS QUESTION WORKLOADS DURING SIMULTANEOUS ELECTIONS

THE RULES regarding simultaneous general elections are regulated in Article 167 paragraph (3) and Article 347 paragraph (1) of Law Number 7 of 2017 on General Elections (Election Law). The petition which is registered Number 16/PUU-XIX/2021 was filed by Akhid Kurniawan, Dimas Permana Hadi, Heri Darmawan, and Subur Makmur. The Petitioners gave power of attorney to Fadli Ramadhanil, Catherine Natalia, Heroik Mutaqin Pratama, and Kahfi Adlan Hafiz.

Kahfi Adlan Hafiz, who was also the Petitioner’s attorney in the hearing, explained the Petitioners’ workload as election organizers at the KPPS, PPK, PPS levels in the 2019 Election. Kahfi revealed that there were very important and fundamental issues related to the workloads of election organizers. Kahfi said, “According to the Petitioners, the workload of election organizers, especially those at the KPPS, PPK, and PPS levels, are intolerable, irrational, and inappropriate.”

Kahfi explained that this intolerable and irrational burden was caused by the implementation of simultaneous elections with five ballots at the same time to elect the President and Vice President, the House of Representatives



(DPR), the Regional Representatives Council (DPD), the provincial DPRD (Regional Legislative Council), and the regency/city DPRD.

The constitutional issues filed by the Petitioners to the Court are directly related to the Petitioners’ position as 2019 Election organizers. Despite their grievance, the Petitioners intend to participate again as election organizers at the KPPS, PPK, PPS levels in the 2024 Election. This constitutional issue will also have a more significant impact, especially related to the workloads of ad hoc election organizers throughout Indonesia for the 2024 General Elections, including KPPS, PPK, and PPS on voting, vote counting, and recapitulation. They believe that it is directly related to the smooth running of honest and fair elections in accordance with the people’s sovereignty, with more rational, appropriate, and humane workloads for the election organizers.



CHARGED FOR STORING COMPANY DATA IN GOOGLE DRIVE, COUPLE CHALLENGES ELECTRONIC INFORMATION AND TRANSACTIONS LAW

THE PROVISIONS on the transfer of electronic information and/or electronic documents and its punishment as stipulated in Law Number 11 of 2008 as amended by

Law Number 19 of 2016 on Electronic Information and Transactions (UU ITE) was challenged by the Constitutional Court (MK). The preliminary hearing for Case Number 17/PUU-XIX/2021 was held on Thursday (10/6/2021).

The petition was filed by married couple Rosiana Simon and Kok An (Petitioners I and II). Simon is employed at PT Kadence International but was sued by the company for storing her work data on her personal Google Drive account, whose password was known by her husband, Kok An.

In the petition, the Petitioners challenge Article 32 paragraph (1), Article 32 paragraph (2), Article 32 paragraph (3), as well as Article 48 paragraph (1), Article 48 paragraph (2), and Article 48 paragraph (3) of the ITE Law. They asserted that these articles are ambiguous and have multiple interpretations that should be clarified in a law or other legal provisions such as implementing regulations. Therefore, based on the argument, the Petitioners requested the Constitutional Court state that these articles were contrary to the 1945 Constitution and had no legal force. (Utami Argawati)



ATURAN LAPORAN PENCABULAN HANYA BOLEH DIADUKAN OLEH KORBAN DIUJI

DUA Mahasiswa Fakultas Hukum Universitas Kristen Indonesia (UKI) menguji Pasal 288 ayat (1), ayat (2), ayat (3) serta Pasal 293 ayat (1), ayat (2), ayat (3) Kitab Undang-Undang Hukum Pidana (KUHP). Leonardo Siahaan dan Fransiscus Arian Sinaga menilai pasal-pasal tersebut multitafsir dan bertentangan dengan UUD 1945. Hal ini disampaikan keduanya dalam sidang Perkara Nomor 21/PUU-XIX/2021 yang digelar secara daring pada Selasa (15/6/2021) siang.

Dalam persidangan yang dipimpin oleh Hakim Konstitusi Manahan M.P. Sitompul, Leonardo Siahaan menilai ketentuan Pasal 293 ayat (2) dan Pasal 288 multitafsir dan tidak memberikan kepastian hukum yang

jas. Dia mengatakan hal ini meresahkan dan menimbulkan kekhawatiran para Pemohon yang memiliki adik kandung dan saudara perempuan, yang rentan menjadi korban percabulan di bawah umur dan sebagai korban kekerasan dalam perkawinan sehingga tidak ada implementasi kepastian perlindungan hukum.

"Terdapat permasalahan dalam Pasal 293 ayat (2) KUHP yang mencantumkan bahwa penuntutan dilakukan hanya atas pengaduan orang yang terhadap dirinya dilakukan kejahatan itu. Ini artinya merupakan delik aduan absolut, hal ini menjadi penghambat bagi orang lain yang bukan korban cabul untuk melaporkan ke pihak berwajib," ujar Leonardo.

Para Pemohon merasa tidak adanya kejelasan Pasal 288 KUHP mengenai batasan umur yang dimaksud oleh ketentuan *a quo*. Menurut para Pemohon, seharusnya Pasal 288 KUHP memberikan penjelasan yang jelas usia dari yang dimaksud "belum waktunya untuk dikawini. Hal ini dikhawatirkan menimbulkan perdebatan seperti apa "belum waktunya untuk dikawini" sebagaimana dimaksud dalam Pasal 288 KUHP.

Untuk itu, dalam petumnya, Pemohon meminta agar Mahkamah Pasal 293 KUHP dan 288 KUHP sepanjang frasa "belum dewasa" dan "belum waktunya untuk dikawini" tidak mempunyai kekuatan mengikat. Pemohon pun meminta kepada Majelis Hakim menyatakan Pasal 293 ayat (2) KUHP adalah sesuai dengan UUD 1945 secara bersyarat (*conditionally constitutional*). (Utami Argawati)



PROVISIONS ON SEXUAL HARASSMENT COMPLAINT FILING BY VICTIMS WERE CHALLENGED

TWO LAW students from the Indonesian Christian University (UKI) challenge Article 288 paragraph (1), paragraph (2), paragraph (3) and Article 293 paragraph (1), paragraph (2), paragraph (3) of the Criminal Code (KUHP). Leonardo Siahaan and Franciscus Arian Sinaga considered these articles to have multiple interpretations and contradict the 1945 Constitution. They conveyed the statement in the hearing of Case Number 21/PUU-XIX/2021, which was held online on Tuesday (15/6/2021) afternoon.

In the hearing chaired by Constitutional Justice Manahan M.P. Sitompul, Leonardo Siahaan thinks that the provisions of Article 293 paragraph (2) and Article 288

have multiple interpretations and did not provide clear legal certainty. He said this is troubling and raises concerns for the Petitioners who have younger siblings and sisters, who are vulnerable to becoming victims of sexual harassment and victims of domestic violence due to the lack of legal certainty.

Leonardo said, "There is a problem in Article 293 paragraph (2) of the Criminal Code, which states that the person can also file a complaint against whom the crime has been committed. This means that it is an absolute complaint offense, which inhibits people who aren't victims of sexual harassment to file a complaint to the law enforcement."

The Petitioners feel there is no clarity in Article 288 of the Criminal Code regarding the age limit referred to by the a quo provision. According to the Petitioners, Article 288 of the Criminal Code should provide a clear explanation regarding the age, which reads "it is not of marriageable age." It is feared that this will cause a debate as to whether it is "not of marriageable age" as referred to in Article 288 of the Criminal Code.

Therefore, in their petition, the Petitioners requested the Court's that Articles 293 of the Criminal Code and 288 of the Criminal Code, which reads "a minor" and "not of marriageable age," have no binding force. The Petitioner also requested the Panel of Judges to state that Article 293 paragraph (2) of the Criminal Code is conditionally constitutional in accordance with the 1945 Constitution. (Utami Argawati)



FMIPA UI LECTURER CHALLENGE PROVISIONS ON PROFESSORSHIP APPOINTMENT

THE PRELIMINARY hearing of the judicial review of Law No. 14 of 2005 on Teachers and Lecturers was held by the Constitutional Court (MK) on Wednesday, June 16, 2021. The petition No. 20/PUU-XIX/2021 was filed by Sri Mardiyati, an FMIPA (Faculty of Mathematics and Natural Sciences) lecturer of the University of Indonesia (UI). The Petitioner challenges Article 50 paragraph (4) of the Teacher and Lecturer Law.

In a concrete case, the Petitioner was recommended by the rector of UI to the Minister of Education and Culture to be appointed as a professor in 2019. The nomination was prompted by a long process internally, including an assessment of scientific work by a professor of mathematics from Institut Teknologi Bandung (ITB). The Petitioner asserts

that under Article 50 paragraph (4) of the a quo law, the appointment, and confirmation of certain levels of academic positions, including a professorship, is the authority of the higher education unit or the university or the rector. However, due to the minister-assigned 2019 Operational Guidelines for Credit Score Assessment, such an authority falls on the Directorate General of Higher Education.

The Petitioner believes that is because Article 50 paragraph (4) of the a quo law mentions the phrase that the appointment and confirmation of professors are carried out by each unit following statutory regulations. The Petitioner believes that in practice, Article 50 paragraph (4) of the a quo law is interpreted differently by Article 70 to mean that the appointment and confirmation of certain levels of academic positions, including a professorship, is under the minister and not the higher education unit. Therefore, the Petitioner requested that the Court declare Article 50 paragraph (4) of the Teacher and Lecturer Law unconstitutional and not legally binding insofar as not interpreted that "the confirmation of certain levels of academic positions falls under the purview of the rector as the head of the higher education unit, without the minister's intervention." The petitioner also requested that the norm be declared conditionally unconstitutional in UI specifically, insofar as not interpreted as "the appointment and confirmation of certain levels of academic positions as referred to in paragraph (3) is determined by each of the higher education unit pursuant to statutory regulations" not complying with the Government Regulation No. 68 of 2013 on the Statute of Universitas Indonesia. (Nano Tresna A.)

2021 ELECTION RESULTS DISPUTE VERDICT

No	Case Number	Subject Matter of the Case	Petitioner	Verdict	Date
1	140/PHP.BUP-XIX/2021	2021 Regent Election Results Dispute of Rokan Hulu	Erizal and Hafith Syukri	Annul the decision	May 27, 2021
2	137/PHP.BUP-XIX/2021	2021 Regent Election Results Dispute of Sekadau	Rupinus and Aloysius	Reject the entire petition	May 27, 2021
3	138/PHP.BUP-XIX/2021	2021 Regent Election Results Dispute of Rokan Hulu	Hamulian and M. Sahril Topan	Dismissed	May 27, 2021
4	144/PHP.KOT-XIX/2021	2021 Mayor Election Results Dispute of Banjarmasin	Ananda and Musaffa Zakir	Dismissed	May 27, 2021
5	139/PHP.BUP-XIX/2021	2021 Regent Election Results Dispute of Mandailing Natal	Dahlan Hasan Nasution and Aswin	Reject the entire petition	June 3, 2021

6	141/PHP.BUP-XIX/2021	2021 Regent Election Results Dispute of Labuhanbatu	Andi Suhaimi Dalimunte and Faizal Amri Siregar	<p>The verdicts are:</p> <ol style="list-style-type: none"> 1. Granting the Petitioner’s petition partially; 2. Declaring the annulment and the invalidity of the General Election Commission’s Decision of Labuhanbatu Regency Number 64/PL.02.6-Kpt/1210/KPUKab/IV/2021 on the Determination of the Recapitulation of Vote Count Results after the Court’s Decision Number 58/PHP. BUP-XIX/2021. In the 2020 Labuhanbatu Regent and Deputy Regent Election, dated 27 April 2021 on the share of votes of each pair of candidates at the two polling stations, including TPS 007 and TPS 009 in Bakaran Batu Urban Village, South Rantau Subdistrict; 3. Ordered General Election Commission of the Labuhanbatu Regency to hold re-vote for the 2020 Labuhanbatu Regency Regent and Deputy Regent Elections at the two polling stations, including TPS 007 and TPS 009 in Bakaran Urban Village Batu, South Rantau Subdistrict no later than 14 (fourteen) working days after the pronouncement of the Court’s Decision and report it to the Court within seven working days after the re-vote is completed; 4. Ordered the General Election Commission of the Republic of Indonesia to supervise and coordinate with the General Election Commission of North Sumatra Province and the General Election Commission of Labuhanbatu Regency and its staff in the context of implementing this decision; 5. Ordered the General Election Supervisory Body of the Republic of Indonesia to supervise and coordinate with the Election Supervisory Body General Election of North Sumatra Province and the General Election Supervisory Body of Labuhanbatu Regency and their staff in order to implement this decision and report it to the Court within seven working days after the re-vote is completed; 6. Ordered the Labuhanbatu District Police and their staff to secure the re-vote process in accordance with its authority; 	June 3, 2021
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7	142/PHP.BUP-XIX/2021	2021 Regent Election Results Dispute of South Labuhanbatu	Hasnah Harahap and Kholil Jufri Harahap	In the Principal of the petition 1. Granting the Petitioner's petition partially. 2. Declaring the annulment of the General Election Commission of South Labuhanbatu Regency Decree Number 919/PL.02.7 Kpt/1222/KPU-Kab/V/2021 on Determination of Elected Candidate Pair for Regent and Deputy Regent in the 2020 South Labuhanbatu Regent and Deputy Regent Election, dated May 1, 2021. 3. Reject the Petitioner's petition other than and the rest. 4. Declaring the validity and execution of Decree of the General Election Commission of South Labuhanbatu Regency Number 887/PL.02.6-Kpt/1222/KPU-Kab/IV/2021 on Determination of Recapitulation Results of Vote Counting After the Decision of the Constitutional Court Number 37/PHP.BUP-XIX/2021 in the 2020 Regent and Deputy Regent of South Labuhanbatu Election, on April 27, 2021. 5. Ordered the General Election Commission of South Labuhanbatu Regency to issue a new Decree on the Determination of the Elected Candidate Pair for Regent and Deputy Regent in the 2020 South Labuhanbatu Regent and Deputy Regent Election.	June 3, 2021
8	143/PHP.BUP-XIX/2021	2020 Regent Election Results Dispute of North Halmahera Regency	Joel B. Wogono and Said Bajak	Reject the entire petition	June 3, 2021



CONSTITUTION AND CITIZENS' CONSTITUTIONAL RIGHTS

Chief Justice of the Constitutional Court Anwar Usman becomes speaker for the One Day Seminar held by the Regional Legislative Council (DPRD) of Bima City on Friday (21/5/2021). In this event, the Chief Justice of the Constitutional Court discussed the theme "The Constitutional Court's Role in Protecting and Maintaining the Citizens' Constitutional Rights in a Democratic State."

Constitutional Justices have consistently provided material on the law and citizens' constitutional rights from mid-May to June 2021. This activity is provided in the form of education, national seminars, and public lectures held online and offline. Participants were enthusiastically involved in the discussion through questions that made the discussion more dynamic.

Democracy Must Go Along with Nomocracy

Anwar explained that the discussion on the Constitutional Court in Indonesia started while the founding fathers were discussing the 1945 Constitution. The idea was initiated by Prof. Muhammad Yamin when the Investigating Committee for Preparatory Works for Independence (BPUPI) discussed the constitution draft. Then he talked about the importance of a judicial institution that has the authority to review laws. However, this idea was rejected for several reasons, including that Indonesia had just become independent and because

there were not many qualified law graduates. When the amendment to the 1945 Constitution was discussed during the Reform Era, this idea resurfaced.

Furthermore, Anwar explained that after the amendment to the 1945 Constitution, the current understanding of democracy must go along with nomocracy (constitution) as the consensus of the highest norm of the state. Its logical consequence is that, although law is created by the legislative and the executive, judicial review is imperative to prevent the tyranny of the majority over the minority and preserve state constitutionality. It is also imperative as checks and balances between state powers and protects the citizens' constitutional rights from

political policies that may infringe on those rights.

Amendments to the 1945 Constitution

Constitutional Justice Enny Nurbaningsih was the speaker for the Panel Discussion «SBS. 1945 Constitution of the Republic of Indonesia» Short Education Program Batch XXIII Lemhannas RI online on Monday (24/5/2021). The topic of discussion this time is "The impact of the Amendment to the 1945 Constitution in the State Administration System."

On that occasion, Enny explained the reasons for the need for an



Constitutional Justice Enny Nurbaningsih becomes the speaker at the Webinar organized by Lemhanas, Monday (24/05) at the Constitutional Court Building. Photo: Public Relations/Ifa.

amendment to the 1945 Constitution. She believes that amendment to the 1945 Constitution is a necessity because the Constitution itself has provided room for changes according to the agreed terms. In this context, Enny revealed that history was not good enough during the New Order era, where there was an intention not to make changes to the Constitution in order to implement the Constitution purely and consistently. This is stipulated in TAP MPR No. 4 of 1983 concerning the Referendum.

"The TAP MPR is actually contrary to the Constitution itself. However, no institution can challenge this matter. Hence, the conflict took place in such a way. The main point is that the TAP MPR wants to implement the provisions of the 1945 Constitution. What is stipulated in the TAP MPR is actually contrary to our founding fathers, especially the people who establish the 1945 Constitution. People who established the 1945 Constitution, especially Bung Karno,

said from the start that the 1945 Constitution was temporary," said Enny.

In fact, the original 1945 Constitution stated the need for improvement of the 1945 Constitution. In 1957, Bung Karno also emphasized that the mechanism related to the amendment of the 1945 Constitution must be carried out as soon as possible in order to improve the 1945 Constitution, including providing a new nuance, following the current development, which has not been accommodated in the 1945 Constitution.

Furthermore, Enny revealed several impacts of the amendments to the 1945 Constitution. One of the most important impacts is that the MPR is no longer the highest state institution. Therefore, the organs between state institutions have an equal position. According to Enny, this will have implications for the three pillars of power, including executive, legislative, and judicial. In the executive pillar, the President's term of office is limited

to five years for one term and is only extended for one term. The legislative pillar has a new state institution, namely the Regional Representative Council (DPD). In the judicial pillar, there is a unification of judicial and non-judicial functions in institutions of the Supreme Court. In addition, the presence of the Constitutional Court as a guardian of the constitution.

The Constitutional Court Procedural Law for Prospective Advocates

Deputy Chief Justice of the Constitutional Court (MK) Aswanto becomes the speaker at the virtual "Education Program For Prospective Advocates Batch V" organized by the central executive board (DPP) of the Association of Lawyers and Legal Consultants and the Postgraduate Program of the Law Faculty of IAIN (State Islamic Institute) Syekh Nurjati Cirebon on Sunday (23/5/2021).



Deputy Chief Justice of the Constitutional Court Aswanto becomes Webinar speaker at the virtual Education Program For Prospective Advocates Batch V organized by the central executive board (DPP) of the Association of Lawyers and Legal Consultants and the Postgraduate Program of the Law Faculty of IAIN (State Islamic Institute) Syekh Nurjati Cirebon on Sunday afternoon (23/5/2021) afternoon. Photo: Public Relations

He delivered a presentation on “The Procedural Law of the Constitutional Court of Republic Indonesia.”

Justice Aswanto began his presentation by explaining the basis of the establishment of the Constitutional Court following Article 24 paragraph (2) of the 1945 Constitution, which states that the judicial powers are carried out by the Supreme Court and by its subordinate judicatory bodies dealing with general, religious, military, state administrative judicial fields, and by a Constitutional Court.

Justice Aswanto explained the stages of judicial review. First, the Court held a preliminary hearing. Three justices hear the main points of a petition and give recommendations to revise it. The petitioners are then given up no longer than 14 working days to revise it.

Second, in the examination hearings, the justices hear the revisions to the petition. Then the panel forwards the case to the justice deliberation

meeting (RPH), where they recommend whether the case progresses to the plenary hearing or not. After that, the petitioners, the president, the House of Representatives (DPR), and the relevant party are given a chance to prove their arguments by presenting experts and witnesses. Then, the Court holds another RPH to discuss the decision.

Justice Aswanto then explained the Court’s authority to hear disputes between state institutions whose authorities are granted by the Constitution. Justice Aswanto also explained power of attorney in the Constitutional Court’s hearings. The petitioner or respondent may be accompanied or represented by legal counsels, while public and private legal entities may be accompanied by legal counsels or appoint them. The legal counsels do not have to be advocates. They may be public prosecutors and public defenders. Justice Aswanto also talked about the Constitutional Court’s decision.

“The Constitutional Court decisions are *erga omnes*. Norms that the Court has annulled is no longer legally binding although the same norm in other law(s) is not or has not been challenged in the Court,” said Aswanto.

Pancasila Values

In order to commemorate the Birthday of Pancasila on June 1, Inspiration for the Nation held a discussion with Pancasila experts and state officials. Chief Justice of the Constitutional Court Anwar Usman was one of the speakers presented in the webinar with the theme “Pancasila as a Way of Life and the Source of All Sources of Law on Saturday (29/05/2021).

Other speakers, such as Professor of Gajah Mada University Kaylan MS, Chairman of the MPR RI Bambang Susatyo, Secretary of BPIP Karjono, and DPD RI Abdul Kholik have also attended this event. In the discussion led by Lintang Ratri, Chief Justice Anwar Usman, in his presentation, discussed more deeply the birth of Pancasila as The Law of Nations. According to Anwar, if it is related to the constitution, the Preamble contains the formulation of the ideals of the nation’s struggle and its ideology, namely Pancasila. Anwar revealed that the founding fathers had been committed from the beginning on the concept of a constitutional state that the state must be based on the constitution.

Anwar further said that this legal concept is inspired by the values of Pancasila, which are oriented towards justice and people’s sovereignty. Therefore, the presence of judicial power with the people must function as guardians and protectors of citizens’ constitutional rights and guardians of the Pancasila ideology. Regarding the lack of legal awareness of the



Contributing to the Progress of Society

Chief Justice Anwar Usman asked the Islamic Students Association (HMI) of Dompu Branch to contribute to the development and welfare of the Dompu people actively. He believes the Dompu HMI could collaborate with the local government to implement the various programs planned by the regent successfully.

"HMI must support and bring to a success the regent's programs as the manifestation of compliance to the leadership," he said when attending the closing ceremony of the national intermediate II cadre training of Dompu Branch HMI at the hall of Dompu regent's office on Friday, June 4, 2021.

Justice Anwar believes Dompu HMI will be able to achieve Golden Indonesia 2045, echoing the training's theme of "HMI's Ijtihad for the Golden Indonesia 2045."

"HMI must be able to contribute and give inputs for the advancement of the region," he added.

Meanwhile, Dompu regent Abdul Kader Jaelani said that Dompu HMI was the pride of all Dompu people. He expressed his hope that the younger generation, especially HMI, could

Ketua MK Anwar Usman menjadi narasumber dalam Webinar "Pancasila sebagai Way of Life dan Sumber Segala Hukum" pada Sabtu (29/05). Foto: Humas/Bayu.

community, according to Anwar, it is necessary to transform the values of Pancasila.

"The value of Pancasila must inspire every law enforcement, and the constitution must also be placed as a living system. Therefore, the Constitutional Court in exercising its authority does not only look at the norms that become a touchstone but is also inspired by the values of Pancasila,"

said Anwar, who was present virtually from the Constitutional Court Building in Jakarta.

In addition to being attended by experts and national figures, this discussion was also attended by master students from several universities. The participants were given the freedom to respond and ask questions to the speakers. Therefore, the discussion becomes very dynamic.



The Chief Justice of the Constitutional Court, Anwar Usman, was a speaker in the National Level Intermediate Training of the HMI Dompu Branch on Friday, June 4, 2021. Photo: Public Relations/Bayu.

educate the people, especially the younger generation, for a better Dompu that is free from issues that could disrupt order in the community.

"This is what we also expected from Dompu HMI," he explained.

Constitutional Court's Position

Constitutional Court Justice Wahiduddin Adams as a speaker in Field Work Lecture (KKL) activities organized by Pancasakti University, Tegal, virtually on Friday, June 11, 2021. Justice Wahiduddin presented material on "The Constitutional Court in the State Administration System of the Republic of Indonesia."

Before discussing the institutions and positions of the Constitutional Court, Wahiduddin spoke about the concept of constitutionalism. He said the constitution is the supreme law. The constitution contains the highest goals of the state.

Wahiduddin said that the constitution is the path or boundary for the implementation of democracy. Article 1 paragraph (2) of the 1945 Constitution essentially states that

democracy must be placed within the corridor of law and constitution. Without law, democracy can develop in the wrong direction because the law can be interpreted unilaterally by the authorities in the name of democracy. Therefore, the concept of democracy based on law develops (constitutional democracy). This is because the development of democracy goes along with the development of the idea of a state based on the rule of law (*rechtstaat*) and based on the idea of the rule of law (nomocracy).

After having a brief discussion on the concept of constitutionalism, Wahiduddin also talked about the institution and the position of the Constitutional Court. The existence of the Constitutional Court is one of the developments of legal thought and modern state that emerged in the 20th century. Wahiduddin explained that in 2003, when the Constitutional Court was born, Indonesia became the 77th country to adopt the Constitutional Court in its constitutional system. Constitutional Court is one of the actors of judicial power together with the Supreme Court. He said the Constitutional Court is given the

authority to adjudicate at the first and final level in examining laws against the Constitution; decide on disputes over the authority of state institutions whose authority is granted by the Constitution; decide on the dissolution of a political party; decide disputes over general election results, and is obliged to decide on the opinion of the DPR on alleged violations by the President and/or the Vice President according to the Constitution.

Wahiduddin also said the Constitutional Court had actively been responsible for making decisions over the results of regional head election disputes since 2008. The background to the implementation of the authority to adjudicate regional head election disputes is quite long. It started when the legislators issued Law No. 22 of 2007 on General Election Organizers. Law No. 22 of 2007 expands the scope of the definition of Election as contained in Article 22E of the 1945 Constitution. The Regional Head Election is declared as part of the electoral regime.

Furthermore, Wahiduddin said that as the embodiment of a democratic state based on the rule of law, an independent and impartial court is a prerequisite and the main characteristic that must exist to become an independent and impartial court. Therefore, it is crucial to maintain the integrity and behavior of constitutional judges so that this institution remains trustworthy.

The Nature of Human Rights

Deputy Chief Justice of the Constitutional Court (MK) Aswanto presented an online Public Lecture to law students of Tadulako University virtually on Saturday, June 12, 2021. The theme of this public lecture is "Constitutionalism of Human Rights in the framework of the Unitary State



Hakim Konstitusi Wahiduddin Adams menjadi narasumber dalam kegiatan webinar Kuliah Kerja Lapangan yang diselenggarakan oleh Universitas Pancasakti Tegal, Jumat (11/06) di Gedung MK. Foto Humas/Ifa.

of the Republic of Indonesia.” Aswanto explained that in Indonesia, three constitutions have been in effect for four periods.

In the first period, many things still need to be completed because they are considered not to accommodate all aspects of the life of the people and of the nation. One of them is when the constitution in Indonesia has not been maximum in guarantee human rights (HAM).

Therefore, there was a debate, so that in 1949 Indonesia used the Constitution of the Republic of the United States of Indonesia (RIS) as the second period of enactment of the constitution in Indonesia. One of the reasons for the changes to the 1949 RIS Constitution was because the 1945 Constitution was considered to still not guarantee human rights, even though human rights became the spirit of the times.

“Theoretically, a country that abandons the spirit of the times will be out of place. Whoever ignores the spirit of the times will be out of date. The issue of human rights is fundamental. Not only for the Indonesian people but for all of humanity,” said Aswanto.

He also explained that human rights constitutionalism or constitutional rights are actually one’s right that is guaranteed and protected by the constitution. When discussing the 1945 Constitution of the Republic of Indonesia after the amendment, the issues of constitutional rights are regulated in Article 28A to Article 28J. Human rights must be distinguished from basic rights.

Justice Aswanto said suppose human rights are regulated or not regulated in the constitution, we must respect it because it is a right that someone obtains. After all, they are God’s creation. Only humans have human rights, while other nonhuman beings don’t have them.



Deputy Chief Justice of the Constitutional Court, Aswanto, in a Webinar on “Human Rights Constitutionalism Within the Framework of the Unitary State of the Republic of Indonesia” organized by the Faculty of Law, Tadulako University, Palu, Central Sulawesi on Saturday (12/9) morning. Photo: Public Relations/Panji.

Justice Aswanto also explained the enforcement of human rights within the framework of the Unitary State of the Republic of Indonesia. He described one way to protect the Unitary State of the Republic of Indonesia: to guarantee, enforce, protect, and promote human rights.

Implementation of Pancasila in State Life

Chief Justice of the Constitutional Court (MK) Anwar Usman was the keynote speaker in the National Seminar held by the Faculty of Teacher Training and Education of Pattimura University (FKIP Unpatti) on Friday, June 11,



Chief Justice of the Constitutional Court Anwar Usman was the keynote speaker in the National Seminar held by the Faculty of Teacher Training and Education, Pattimura University, on Friday, June 11, 2021, at the Constitutional Court Building. Photo: Public Relations/Ifa.

2021. As many as 557 students of the Pancasila and Civic Education study program from the faculty attended the seminar virtually and in person.

In the seminar on “The Implementation of Pancasila in the Dynamics of Social, Nation, and State Life,” the Chief Justice said that Pancasila is the foundation in the 1945 Constitution. Even the last paragraph of the Preamble to the 1945 Constitution contains the precepts of Pancasila. So, he added, Pancasila is the nation’s legal ideal because it is the central norm in the country.

Justice Anwar said further that the state’s ideals and the basic ideology are described in the body of the Constitution, which lays down the state regulations and the positions of state institutions, guarantees the lives of citizens, and so on. The founding fathers, through the Preamble to the 1945 Constitution, built the concept of the Indonesian state that must be carried out according to the Constitution

Justice Anwar asserted that the life of the nation and state is closely related to the law. “Therefore, the law as a social institution can be used as a tool to establish the order of social life,” said Anwar in the activity, which was also attended by other speakers such as Lecturers of the Indonesia University of Education, Sapriya.

Justice Anwar also said that changes in society and renewal of the concept of state development require a solid and dynamic constitutional foundation. Thus, the Constitution lives in the community. This constitution reform is also embodied in the amendment to the 1945 Constitution. Through the amendment, he said, new institutions were born, one of which is the Constitutional Court, which maintains constitutional values and the efforts to advance development. He said that although the Constitution guarantees

the citizens’ rights normatively, every citizen must keep a close eye on its developments so that no constitutional rights are violated and harm citizens.

After presentations by Chief Justice Anwar Usman and UPI lecturer Sapriya, the participants were allowed to ask questions. The seminar was enlivening because of the interaction between the speakers and the participants in discussing the main issues raised in this national seminar.

Law Graduates plays an essential role in Society

Chief Justice of the Constitutional Court (MK) Anwar Usman was the keynote speaker in the 2021 National Webinar on Law on “Legal Professions: Profit or Upholding Justice.” The event was organized by the Student Executive Body (BEM) of the Law Faculty of Galuh University, Ciamis, on Saturday, June 19, 2021.

“Legal graduates today play an important role in society and the nation because since the amendment

to the 1945 Constitution, the state’s legal principles are stated in the amendment and explicitly stated in Article 1 paragraph (3): Indonesia is a legal state. The principles of the legal state (the rule of law) before the amendment to the 1945 Constitution were only stated in the elucidation so that the concept of the legal state used to be considered a mere tagline, devoid of a strong and earnest desire,” said Anwar at the beginning of the webinar.

Therefore, he said, the legal professions are now important and even prestigious. They are closely related to legal high education because it is the breeding ground for legal graduates to start their careers. Justice Anwar stressed that the legal high education institutions have the responsibility to generate legal professionals with integrity.

In seminars and discussions, the chief justice has repeatedly said that the role and contribution of legal high education are significant in law enforcement in the country. Everyone participating in the webinar—the



Chief Justice Anwar Usman was the speaker at the 2021 National Webinar on law organized by the Student Executive Body of the Law Faculty of Galuh University, Ciamis, on Saturday, June 19, 2021. Photo by Public Relations/Hendy.

Rector, Deans, members of the faculty, and the participants—are products of legal high education. This means that all of us, without exception, are a product of higher education. In this context, it is related to legal high education.

Legal Developments After the COVID-19

Constitutional Justice Saldi Isra was the keynote speaker in the National Webinar on “Legal Developments After the COVID-19 Pandemic.” This activity was organized by the Center for Legal and Developmental Studies of the State University of Surabaya on Saturday, June 19, 2021 virtually.

Justice Saldi started his presentation by addressing the concerning developments of the COVID-19 pandemic in Indonesia. He urged participants to comply with health protocols and to pray for the end of the pandemic.

“Hopefully, soon, we arrive at a much better point in the pandemic,” he said. Other speakers who attended the webinar were University of Jember’s civil law professor Herowati Poesoko, Padjadjaran University’s constitutional law professor Susi Dwi Harijanti, University of Indonesia’s criminal law professor Topo Santoso, and Pattimura University’s state administrative law professor Nirahua Salmon E. M.

He said today’s challenge is eradicating COVID-19 and then making developments in law after the COVID-19 pandemic. Saldi believes that the legal development after the COVID-19 remains faithful to the foundation of state life. The law is created to protect the entire nation. In order to achieve the goals of the state within the 1945 Constitution, new legal designs



Constitutional Justice Saldi Isra delivered a key lecture online at the National Seminar organized by the Center for Legal Studies and Development of the State University Surabaya on Saturday, June 19, 2021. Photo: Public Relations/Bayu.

are required as the old ones haven’t accommodated the issues of today.

In short, the impacts of the pandemic are much more severe than that of the economic crisis of 1997–1998. Today we are facing so much more than economic issues.

Right to Education in the 1945 Constitution

Chief Justice of the Constitutional Court (MK) Anwar Usman delivered a public lecture to students of the Muhammadiyah Bima Institute of Law (STIH Muhammadiyah) at the Thayeb STIH Muhammadiyah Bima Auditorium on Saturday, June 19, 2021. Chief Justice of the Constitutional Court (MK) Anwar Usman delivered a public lecture on “State Based on Rule of Law as Instrument to Just, Unified, and Advanced Unitary State of the Republic of Indonesia.” He talked about the guarantee of the right to education before and after the amendment of the 1945 Constitution. He said that

regulation remained minimum despite the state goal of developing the nation’s intellectual life is only possible through developing the national education system for children without exception.

However, Justice Anwar said after the amendment to the 1945 Constitution, the regulation on education and science can be found in many articles, including Article 22D paragraph (2) and paragraph (3), Article 28C paragraph (1), Article 28E paragraph (1), as well as Article 31 paragraph (1, paragraph (2), paragraph (3), paragraph (4), and paragraph (5). In addition, after the amendment to the 1945 Constitution, compulsory education is mandatory for citizens. The government has an obligation to finance education properly. Education is now also imperative both for citizens and the government as education providers. A minimum of 20% education budget is now mandatory in the state (APBN) and regional (APBD) budgets.



Chief Justice of the Constitutional Court Anwar Usman delivered a public lecture for students of the Muhammadiyah Bima Institute of Law in the Thayeb Auditorium on Saturday, June 19, 2021. Photo: Public Relations/Hendy.

Issues in Education

Justice Anwar then talked about the implementation of such guarantee to education. He said that normatively, the 20% education budget regulation was already in place in 2002. However, Law No. 20 of 2003 on the National Education System, especially the elucidation to Article 49, gave the government the discretion to implement it gradually. This was declared unconstitutional by the Constitutional Court in Decision No. 011/PUU-III/2005.

In its legal considerations, the Court stated that the 1945 Constitution had stipulated a minimum of 20% of the state and regional budgets for

education, which any regulations under it should not reduce. After the decision was passed, the government set its education budgets to 20%, pursuant to Article 31 paragraph (4) of the 1945 Constitution.

Justice Anwar also said that education was not just about budgets but also coordination between state institutions to ensure the success of education management. Education is under the domain of the Education Ministry and the central government, and other ministries. He then urged everyone to form synergy and to work sustainably.

He also reminded everyone to focus on improving the nation's intellectual life in building the education system and on faith and character, following Article 31 paragraph (3) of the 1945 Constitution. He believes the two issues have not reached an ideal condition and are a challenge for all elements of the nation to improve on. ■

AGUNG SUMARNA/NANO TRESNA ARFANA/SRI
PUJIANTI/BAYU WICAKSONO/UTAMI ARGAWATI/LULU
ANJARSARI P/NUR R.



Chief Justice of Constitutional Court Anwar Usman opening a technical assistance program for the Association of Constitutional and Administrative Law Lectures of Indonesia (APHTN-HAN) on Tuesday, June 15, 2021, at the Constitutional Court's Pancasila and Constitution Education Center (Pusdik) Cisarua, Bogor. Photo: Public Relations/Hamdi.

TECHNICAL ASSISTANCE PROGRAM ON PROCEDURAL LAW OF JUDICIAL REVIEW

Several months ago, the Constitutional Court focused on resolving the 2020 Regional Head Elections dispute. In June 2021, Constitutional Court's Pancasila and Constitution Education Center (Pusdik) again held routine constitutional education activities for citizens. The Constitutional Court urged law lecturers from various universities in Indonesia to further understand the Constitutional Court's authority in conducting judicial review of the 1945 Constitution.

Constitutional Guarantee Against the Protection of Citizens' Constitutional Rights

A total of 420 participants from the Association of Constitutional and Administrative Law Lectures of Indonesia (APHTNHAN) attended

a technical assistance program on procedural law of judicial review, which was organized by the Constitutional Court (MK). Chief Justice Anwar Usman officially opened the event from the Constitutional Court's Pancasila and Constitution Education Center (Pusdik), Bogor, on Tuesday, June 15, 2021.

In his opening speech, the chief justice said that the amended 1945 Constitution now encloses an important human rights aspect in

Section XI. This, he added, indicates that the state genuinely wanted to guarantee the protection of its citizens' constitutional rights. Along with that, the establishment of the Constitutional Court as per the amended 1945 Constitution aimed to guard it.

"Therefore, the Constitutional Court has to guard the guarantee of the citizens' constitutional rights as per the 1945 Constitution," he said before the participants and APHTN-HAN Secretary-General Bayu Dwi Anggono.

Justice Anwar further said that laws are political products by the legislative and executive branches. In the spirit of countering the tyranny of the majority, the Constitutional Court serves as a way for citizens to protect themselves against violations of constitutional rights due to the enactment of a particular law.

Justice Anwar emphasized that the judicial review of laws is the Constitutional Court's core business because the Court was established for checks and balances against the executive and legislative branches. While the executive and legislative branches have a positive authority to establish laws, the Constitutional Court has a negative authority to revoke those laws.

"This balance is necessary for a democracy to promote people's sovereignty with the sovereignty of norms that has been a state consensus," he explained.

Access to Justice

Secretary General of the Constitutional Court M. Guntur Hamzah reported that this event, which was to take place from Tuesday to Friday,

June 15- June 18, 2021, was attended by 420 participants virtually from their respective regions. He said that the Court, which was formed in the Reform era, would have its 18th anniversary on August 13. The Court, he added, would be facing challenges in building its image as a modern and trusted judicial body.

Furthermore, he also said that, aside from serving as the guardian of the Constitution, the Constitutional Court is responsible for building awareness of the Constitution, including the procedural law of judicial review. Through its Constitutional Court's Pancasila and Constitution Education Center (Pusdik), the Court invites all elements of society to various events to increase their awareness of their constitutional rights.

"The event serves to inform the academics of the Court's regulations,

especially on judicial review, which is the Court's effort to provide its strategic partners with access to justice," he said from the Constitutional Court in Jakarta.

Constitutional Court's Academic Partners

Meanwhile, Secretary General of APHTN-HAN Bayu Dwi Anggono as the representative of the Central Executive Body of APHTN-HAN, who serves in 2021-2025, said that the technical assistance program is an implementation of past collaboration with the Court. He said that the event's participants were lecturers of various universities all across the country, from Sumatra to Papua. Thus, the principle of inclusivity has been covered from participation in intellectual gathering



Deputy Chief Justice of the Constitutional Court Aswanto (center) closed the virtual technical assistance program for the Association of Constitutional and Administrative Law Lecturers of Indonesia on Friday, June 18, 2021, in Jakarta. Photo: Public Relations/Hamdi.

activities with the Constitutional Court. He expected that the event would lead to more interest in the Court as a constitutional justice body in Indonesia.

Bayu also said that the theme of the procedural law of judicial review was selected as the material for APHTN-HAN due to the Court's rapid development and dynamic procedural law. He said it was important for lecturers to understand it for academic and research purposes.

"Therefore, the central executive body of APHTN-HAN has high hopes for the participants to use this learning opportunity very well because the Court is a partner of the academics," he said.

Revise Procedural Law of Formal and Material Judicial Review

Deputy Chief Justice Aswanto closed the technical assistance program on procedural law of judicial review for the Association of Constitutional and Administrative Law Lectures of Indonesia (APHTN-HAN), which was held online at Constitutional Court's Pancasila and Constitution Education Center (Pusdik), Bogor, on Friday, June 18, 2021.

In the keynote speech closing this activity, Justice Aswanto said that the Court is currently revising the procedural law of formal and material judicial review. This was done given the dynamic nature of the Court's procedural law for judicial review, which continuously follows the legal needs of justice seekers.

He admitted that the constitutional justices had difficulties implementing the procedural law of judicial review, including formal and material judicial review. He argued that the Court's procedural law is needed by the constitutional justices in deciding on cases and by justice seekers and law graduates who will uphold the law in the future as prosecutors, advocates, and even constitutional justices.

"Of course, students need an introduction to the Constitutional Court's procedural law. Universities are probably familiar with the Court, but other parties such as the local governments may not understand. Many of them cannot tell the Constitutional Court and the Supreme Court apart. Therefore, it is our duty—including members of APHTN-HAN—to inform [the public] of the Constitutional Court, its duties, functions, and procedural law," he explained before 420 educators affiliated with APHTN-HAN throughout the country.

Separating Formal and Material Judicial Review

Justice Aswanto then talked about the Court's effort to revise the Constitutional Court's procedural law of formal judicial review. Its current Constitutional Court Regulation (PMK) doesn't separate the regulations for the two, so in case of simultaneous formal and material judicial review, the Court will settle the formal case within 60 workdays or 90 calendar days.

"However, for the newly-applied regulation, there have been issues in

its practice. Therefore, the Court hopes that the educators in APHTN-HAN can provide ideas for the new PMK to solve this issue. We will discuss this with educators shortly. With inputs from these educators, hopefully, the issues in the field will be solved more optimally," he said.

Beneficial for All

In her closing speech, the chairperson of the central executive body of APHTN-HAN, Siti Marwiyah, expressed her gratitude toward the Court for the four-day event attended by law educators.

The association expected that the program would continue with other topics, such as the legal standing of petitioners. They hoped to be able to receive such materials to teach the students at the university.

"In the university, we discuss not only theories but also the practice. Hopefully, this program will give benefit all," said Marwiyah, the Rector of dr. Soetomo University (Unitomo). ■

SRI PUJIANTI/NUR R.



BRAINSTORMING WITH TRADITIONAL LEADERS

Chief Justice of the Constitutional Court Anwar Usman opened the Brainstorming event with the constitution villages' customary law/local community figures on Friday, May 28, 2021, in Tangerang. Photo: Public Relations/Panji.

As a state institution that plays a role in increasing citizens' constitutional awareness, the Constitutional Court seeks to become a media that bridges the practice of constitutional values in society in a more concrete way. The Court's efforts to initiate the constitution villages started in 2012 to improve constitutional awareness bottom-up, starting from the lowest administration level.

Synergy and Coordination

The Constitutional Court (MK) held a brainstorming event with the constitution villages' customary law/local community figures on Friday, May 28, 2021. The event served as a forum for said figures to share ideas and information regarding the dynamics, problems, experiences, and aspirations of managing the villages. Chief Justice Anwar Usman officially opened the

event. In his opening speech, the Chief Justice said that the Court's efforts to initiate the constitution villages started in 2012 to improve constitutional awareness bottom-up, starting from the lowest administration level. The constitutional values that the Court intended to instill came from the local wisdom in the communities.

"The values and norms of the Constitution must live and develop in the community. The Constitution as the supreme law of the land

must be understood, interpreted, and implemented by all elements of the nation. Without understanding, interpreting, and implementing it, the nation and state cannot reach their goals. That is because the state's goals are contained in the Constitution," he said in front of the traditional leaders who were present at the event.

Justice Anwar also said that the brainstorming served to bridge and accommodate the meeting and communication between constitution

villages. Since 2012, the Court has appointed three constitution villages. "They are Gaelasong Village in Takalar Regency, South Sulawesi; Kampung Wasur Village in Merauke Regency, Papua; and Bangbang Village in Bangli Regency, Bali. At present, the academics from the Andalas University of Padang, led by Rector Yuliandri and the Constitutional Court will also appoint a constitution village/Nagari in West Sumatera," he said.

Before concluding his speech and opening the event, Justice Anwar said that the Constitutional Court saw its duty to facilitate and disseminate constitutional values, including through the event, as its inherent characteristic to ensure that the Constitution as the supreme law of the land is indeed implemented.

Concrete Contribution of Constitutional Village

Deputy Chief Justice of the Constitutional Court (MK) Aswanto closed the Brainstorming Event for Traditional Leaders/Communities of the Constitution Villages on Sunday afternoon, May 30, 2021. Justice Aswanto said that the constitution villages cooperate with the Court on paper and provide their inputs to enlighten the Court. The villages must also educate their residents on their constitutional rights.

"The constitution villages will be role models for other villages. Therefore, we hope that they can give their best by contributing to resolving customary law disputes. We need to support each other," he said.

Furthermore, he also emphasized that the Constitutional Court must be really selective in choosing the next constitution village because they will reflect Indonesia.



Deputy Chief Justice of the Constitutional Court Aswanto closing the brainstorming event with the customary law/local community figures of the constitution villages on Sunday, May 30, 2021, in Tangerang. Photo: Public Relations/Panji

"What happens in the constitution villages is a portrayal of what happens in Indonesia. They will become replicas of Indonesia that provide information on what is going on in the villages. Therefore, they will be able to provide solutions to the issues that happen regionally, even nationally," he said.

Justice Aswanto also talked about an international event that the Court will hold in Bali in 2022. "The Constitutional Court of Indonesia is relatively new, but [thank God], many other constitutional courts have referred to it. The constitution villages have also provided their contribution to the Court, and they are our partners. Therefore, we have to preserve and guide these villages. We will try to invite representatives of these villages," he explained.

He concluded his keynote speech by saying that the Court is a transparent greenhouse, as everything that happens in the Court is publicly accessible.

"Because we have to be transparent. For example, if there is a

petition for the regional head election, then people can see it. Likewise, when the decision is read out, the decision must be submitted and uploaded after the pronouncement of the decision," he concluded.

Customary Land Issues

On the second day of the event, they discussed issues experienced by the Constitution Villages and their solutions. Constitutional Justice Saldi Isra also attended the event, presenting the latest constitutional issues and the Constitutional Court. He said that many issues were disputes over customary law land. He hoped the constitution villages could provide some inputs on such issues in the four villages.

"After the issues are written down, we can find out and even learn from other villages. It could help the Court should other petitioners filed petitions on land disputes. In addition, after the disputes are resolved, they can be made into a book that the Court refers to," he said.

After listening to all the problems in the village, Secretary-General M. Guntur Hamzah said that the villages would coordinate with the Law and Human Rights Ministry through the Court and coordinate with the secretary-general of the Supreme Court regarding customary law justice.

Furthermore, he also said that the constitution villages would learn about each other's practices. "We will also translate the 1945 Constitution into local languages. However, it must consider the culture of the village. It is

crucial because after [the Constitution] is translated, the people will be able to understand it more easily," he added.

The three-day event was attended by 35 participants from three villages: Galesong Village from Makassar, South Sulawesi; Wasur Village, Merauke; Bangbang Village, Bangli, Bali. The brainstorming was expected to create synergy, coordination, and a strong relationship between the Court and the villages and between the villages themselves.

In addition, this forum also serves as a means to collect inputs on constitutional, legal, and customary law issues relevant to each village for material discussions. The meeting bridged communities of diverse ethnicities, languages, and customs to share their experience, views, and ideas among fellow traditional leaders under the constitution villages. ■

PANJI ERAWAN/LULU ANJARSARI P.

The Big Family of the
Constitutional Court wishing a
marriage filled with joy and a
happy family full of peace, love,
and blessing to the beautiful
couple

Dewi Rahmawati
and
Candra Aditya

on Saturday, June 13, 2021.

The Big Family of the
Constitutional Court wishing a
marriage filled with joy and a
happy family full of peace, love,
and blessing to the beautiful couple

Indah Karmadaniah
and
Eky Adhi Putra

on Saturday, 19 June 2021



The Chief Justice of the Constitutional Court, Anwar Usman, received a plaque from the Rector of the Muhammadiyah University of Tangerang, Achmad Amarullah, after the signing of the memorandum of understanding (MoU) between the Constitutional Court and the Muhammadiyah University of Tangerang, in the Hall of the Muhammadiyah University of Tangerang on Friday, June 4, 2021. Photo: Public Relations/Illham WM.

THE CONSTITUTIONAL COURT IN COOPERATION WITH INSTITUTIONS AND THE COMMEMORATION OF PUBLIC HOLIDAYS

The Constitutional Court is like a human being who is a social being. Its existence as a state institution is to establish cooperation and good relations with other institutions, which is done to fulfill the role and function of the institution. The Constitutional Court also involved itself in various social and state activities in strengthening its role in creating a legal life that grew based on the development of the life of the nation and the state.

Improving Constitutional Understanding

The Constitutional Court signed a memorandum understanding (MoU) with Muhammadiyah University of Tangerang (UMT) on Friday, June 4, 2021, at the UMT Hall, Tangerang. Chief Justice Anwar

Usman witnessed Secretary-General M. Guntur Hamzah and UMT Rector Ahmad Amarullah signed the MoU, which was expected to start cooperation between the two institutions to improve the citizens' understanding of constitutional rights and to improve the quality of higher education. Chief Justice of the Constitutional Court Anwar Usman was the keynote speaker on the

"The Evaluation of the 2019 General Elections and the 2020 Simultaneous Regional Election."

He presented the public lecture by stating that a judge has a great duty. When a judge decides a case and the verdict is correct, the judge will get two Pahala (reward). He added that a judge would still receive Pahala (reward) despite handing down a wrong verdict.

“Being a judge is a way of worship,” he said to the faculty members and students of the Muhammadiyah University of Tangerang (UMT).

He said that a nation’s foundation is law and justice. Justice must be a priority because it is very close to slander. Justice comes from a clear conscience. He said Mahatma Gandhi believed there is a higher court than courts of justice and that is the court of conscience. A judge who rules against their conscience will have regrets, he said. He also emphasized that the constitution’s mandates are usually in line with that of any holy scriptures.

Meanwhile, at the same time, the Secretary General of the Constitutional Court, M. Guntur Hamzah, who also became the speaker, said that the Constitutional Court is the guardian of the Constitution, democracy, the state ideology Pancasila, and the citizens’ constitutional rights. It has also been

given the state authority to rule at the final level.

“In this developing, modern country, we are grateful that we have a constitutional court because all constitutional issues in the country will be resolved with its interpretations, including in relation to disputes of the results of the general elections—the presidential, legislative, and regional elections including those of the members of regency/city and provincial DPRD,” he explained.

Guntur said that political parties have inevitable roles in a modern state and are a prerequisite for democracy. There is no democracy without political parties. Therefore, these parties function as a means to forward the people’s aspirations, the function of citizen participation in political parties recruitment and a means of political education, and a catalyst in promoting the people’s welfare.

Furthermore, Guntur explained that through political parties, the people recruit national leadership with specific requirements that ensure a democratic process based on justice.

He also said that the Constitutional Court must protect the people’s aspirations, which reflects their sovereignty. “These aspirations are the Court’s main concern,” he stressed. Therefore, the Constitutional Court upholds substantive justice. When other institutions do not carry out their roles optimally, the Court has no other choice than to resolve the issues that arise.

Halalbihalal Eid 1442 H

After a month of fasting during Ramadan, the Constitutional Court (MK) held a Halalbihalal event for Eid al-Fitr 1442 H on Thursday, May 27, 2021. It took place in the ground floor hall of building 1 of the Constitutional



The Chief Justice of the Constitutional Court, Anwar Usman, delivered a speech at the halal bi halal event for Eid al-Fitr 1442 on Thursday, May 27, 2021, which took place offline and online. Photo: Public Relations/Illham.

Court and virtually from office rooms and residences of the Court's staff members. Yarsi University Lecturer Karimulloh became the speaker who presented a sermon on the wisdom of Eid al-Fitr 1442 H.

He also presented a sermon on the meaning of halal bihalal, which is forgiveness. He urged all participants to apologize to their parents who gave birth to them, in-laws, spouses, family members, educators, and coworkers.

This needs to be done because he revealed that the Prophet Muhammad SAW once said to his companions that people who do prayers, fast, give zakat, and do other good deeds but hurt others proved of loss.

"In the future, their good deeds will absolve them of sins and oppression that they've committed. Therefore, in this good month [of Shawwal] let us forgive and ask for forgiveness," Karimulloh said from the activity, which was also attended virtually by Coordinating Minister for Political, Legal, and Security Mahfud M.D., former Constitutional Justice of 2008-2013 Ahmad Shodiki, former Constitutional Justice of 2008-2018 Maria Farida Indrati, former Constitutional Justice of 2015-2020 I Dewa Gede Palguna, and Deputy IV of the Ministry for Political, Legal, and Security Janedjri M Gaffar.

Halalbihalal Tradition

In his opening speech, Chief Justice of the Constitutional Court Anwar Usman said that the halalbihalal is a tradition to strengthen brotherhood that began among Muslims but has now been a culture among Indonesians. It is undeniable, he added, that Indonesia requires a medium to bridge its vast diversity. The tradition was started by Kanjeng Gusti Pangeran Adipati Karya (KGPAA) in around 1770. Then the term

halalbihalal is said to be initiated by K. H. Abdul Wahab Hasbullah, one of the founders of the Islamic organization Nahdlatul Ulama (NU). However, Justice Anwar said, despite its history, Ramadan and halalbihalal are now carried out in a very different manner.

"Because usually, we carried out halalbihalal in person with a handshake, but now it is mostly online and occasionally offline. The COVID-19 pandemic brought great lessons in our relationship with others and with the Almighty," said Anwar.

Therefore, in the context of human relations, Justice Anwar said that humans are expected to be sensitive to others' needs and to help others. In sahih (authentic) hadith, it is said, "He is not a believer whose stomach is filled while the neighbor to his side goes hungry" and "Whoever believes in Allah and the Last Day, let him honor his neighbor." While in the context of *hablum minallah*, Justice Anwar urged the participants to practice patience and trust in God's plan and work hard to find good in all incidents, including the pandemic.

Strengthening Togetherness

Meanwhile, Secretary General of the Constitutional Court M. Guntur Hamzah said that the annual event served to strengthen the Court's togetherness as a family. He also apologized to the justices for any lack of service for the past year.

"On this occasion, on behalf of all staff in the Registrar's Office and the Secretariat General of the Constitutional Court, from the bottom of our hearts, [I] deeply apologize to His Excellency Chief Constitutional Justice, His Excellency Deputy Chief Constitutional Justice, and His/Her Excellencies Constitutional

Justices for any services that haven't met your expectations and for any delayed services. Of course, we will use this forum as a moment for the improvement of our support and services to the Constitutional Court," Guntur said. In this event, Chief Justice of the Constitutional Court Anwar Usman was also present, alongside other constitutional judges.

Pancasila Day Ceremony

Pancasila Day Ceremony in 2021 was attended by state officials, members of the military (TNI), members of the Indonesian National Police (Polri), and students virtually and in person in the Pancasila building of the Ministry of Foreign Affairs on Tuesday, June 1, 2021. The ceremony was led by the President of the Republic of Indonesia, Joko Widodo. This year's ceremony has the theme "Pancasila in Action, Unity for Resilient Indonesia."

Chief Justice of the Constitutional Court Anwar Usman attended and participated in the annual event virtually from the Constitutional Court, Jakarta. In his speech, President Joko Widodo stated that the commemoration of Pancasila should be used to strengthen Pancasila values in society and the state.

Although Pancasila has been integrated into the lives of Indonesian people for a long time, the challenges are not getting any easier. In fact, there are things to watch out for, including the increasing rivalry between transnational ideologies that has entered people's lives in various ways and strategies.

Therefore, President Joko Widodo urged Pancasila's values to be explored in new ways through science and technology, founded on Pancasila. He also urged all elements of society, especially the younger generation, to unite and work actively to strengthen



Chief Justice of the Constitutional Court Anwar Usman attended the virtual Pancasila Day Ceremony on Tuesday, June 1, 2021, at the Constitutional Court Building. Photo: Public Relations/Ifa.

the values of Pancasila in realizing an advanced Indonesia.

Happy Pancasila Day.

Let us implement Pancasila in the life of the nation and state.

MTQ as a Moment to Love Quran

The Musabaqah Tilawatil Quran (MTQ), or Quran reading competition of Nggembe Village, Bolo Subdistrict, Bima Regency, was officially opened on Saturday, June 5, 2021. Chief Justice Anwar Usman and Bima regent Indah Damayanti Putri attended the event.

When opening the MTQ, the Chief Justice of the Constitutional Court, Anwar Usman, expressed his happiness for being around the villagers. Furthermore, he said that the MTQ was a competition to find the best readers of the Quran and guide the young generation to love it.

He said that Nggembe village already has the best *qori* (male Quran reader) in the West Nusa Tenggara (NTB) Province. He hoped the *qori*

would achieve success in national and international competitions.

"I believe that the children of Nggembe will achieve that [success]," he said.

Aside from opening the MTQ in Nggembe Village, Chief Justice Anwar Usman also closed the MTQ in the neighboring Rasabou Village, Bolo Subdistrict, Bima Regency. ■

BAYU WICAKSONO/UTAMI ARGAWATI/SRI
PUJIANTI/LULU ANJARSARI P/NUR R.



Chief Justice of the Constitutional Court Anwar Usman opened the 2021 Musabaqah Tilawatil Quran (MTQ) activity at the Nggembe Village level, Bolo Subdistrict, on Saturday, June 5, 2021. Photo: Public Relations/Bayu.



Secretary General of the Constitutional Court M. Guntur Hamzah was the speaker at the Focus Group Discussion held by the Supreme Court's Center for Research and Development of Law and Justice Education and Training on Monday, May 31, 2021, from the Constitutional Court Building. Photo: Public Relations/lfa.

THE IMPORTANCE OF UNDERSTANDING PROCEDURAL LAW

SECRETARY General of the Constitutional Court M. Guntur Hamzah was the speaker at the Focus Group Discussion (FGD) organized by the Supreme Court's Center for Research and Development of Law and Justice Education and Training on Monday, May 31, 2021. Guntur delivered a presentation on "The Urgency of Reforming the Post-Reform Procedural Law of the Administrative Court."

The committee asked me to talk about the Update Revision of the Post-Reform Procedural Law of the Administrative Court. Guntur said that Lord Chief Justice Gordon Hewart reminded the judges and the judiciary through his wise words, Justice must not only be done, but it must be seen to be done. This means that justice

not only concerns what judges do and decide but also what is done before they decide on a case.

The process to find justice starts from the filing of a suit to the passing of a ruling. The court is obligated to provide justice during that process. "This means that justice is provided not only by the judge but also the staff members and officials in that court," he added.

Guntur also discusses the importance of procedural law, understanding the procedural law which returns to *khittah* or guidelines that contain directions, wisdom, and steps that must be taken, so that the efforts made can actually realize the desired goal, is actually what is called procedural law. He observed the tendency to understand the law excessively as if

the law is superior. He explained that procedural law is a series of provisions regulating the trial to ensure a fair legal process in law enforcement.

Therefore, the procedural law of the administrative court is an instrument to achieve a transparent, accountable, fair trial. Guntur also said that it must be written, clear, firm, and able to support material law.

Guntur also talked about promoting, implementing, and improving technology in the judiciary, which includes changing mindset and works culture; the application of ICT based on the concept of I to Power of Five Judiciary (i5 judiciary); the implementation of e-court, virtual court, and mobile court; the use of digital signatures for all case documents and decisions, as well as electronic-based procedural law.

He said that implementing ICT lessons learned in the Constitutional Court had helped cut cost and time; minimized corruption, collusion, and nepotism (KKN); and improved the quality of public services. (Nano Tresna Arfana/ Nur R.)

Constitutional Court Visits National Police

AFTER the 2020 regional election results disputes were all settled, the Constitutional Court (MK) is now prepared to continue its duty to rule on judicial review of laws against the 1945 Constitution. The Court considers it necessary to re-establish cooperation and coordination with the Indonesian National Police. Secretary-General M. Guntur Hamzah and the Head of the Public Relations and Protocol Bureau Heru Setiawan, the Head of the General Bureau Elisabeth, and the Head of the Legal and Registrar Administration Bureau Tatang Garjito visited the Police Chief Gen. Listyo Sigit Prabowo at the Police Headquarters, in Jakarta.

In an interview after the meeting, Guntur revealed two topics of the



meeting: improving security in the Constitutional Court after regional election results dispute resolution and improving the quality of the human resources that the national police assigned in the Constitutional Court. He stressed that when the Court resumes with its judicial review, there might be cases that might attract public attention or concerns sensitive issues. "So, [the Court] hopes security will be maintained for the safety of its environment,"

explained Guntur in an activity held on Thursday (3/6/2021).

He also hoped that the police officers stationed in the Constitutional Court would receive education and training to improve their quality and skills. He expected both institutions would be able to continue their synergy in their roles and functions in the future. (Sri Pujianti/Lulu Anjarsari P)



Implementation of Merit System in Constitutional Court Deemed "Very Good"

THE CONSTITUTIONAL Court (MK) received 327 points out of 410 points on the implementation of the merit system, achieving the "very good" category, said Sri Hadiati Wara Kustriani, a member of the Civil Service

Commission's (KASN) Region I Merit System Supervision Coordinator, at a meeting on the self-assessment for the implementation of the merit system in the Meeting Room of the Constitutional Court Building on Tuesday afternoon, June 8, 2021. She delivered a presentation on "The Final Evaluation Results of the Implementation of the Merit System in the Constitutional Court of the Republic of Indonesia."

Sri explained the results achieved by the Constitutional Court related to the implementation of the merit system. The assessment showed that the Court had fulfilled 94% of planning; 95% of procurement, 58% of career development; 63% of promotion and transfer; 97% of performance management; 88% of remuneration, rewards, and discipline; 100% of protection and services; and 96% of information system.

Out of the eight aspects, the Constitutional Court received 37,5 points out of 40 on planning; 38 out of 40 on procurement; 75 out of 130 on career development; 25 out of 40 on promotion and transfer; 77,5 out of 80 on performance management; 35 out of 40 on remuneration, rewards, and discipline; 16 out of 16 on protection and services; and 23 out of 24 on information system.

Archive Management Innovation Award from ANRI

THE CONSTITUTIONAL Court (MK) received Archive Management Innovation Award from the National Archives of the Republic of Indonesia (ANRI) in second place in the category of State High Institution, Ministry-Level Agency, Nonstructural Institution, and Public Broadcast Institution. The award was presented by Minister of State Apparatus Empowerment and Bureaucratic Reform (Menpan RB) Tjahyo Kumolo to the Head of the Bureau of General Affairs Elisabeth at the summit of a ceremony to celebrate the 50th Archive Day on Wednesday evening, June 9, 2021.

At the event, with the theme "Golden Year of Archives: Stand United



Toward Digital Archives," President Joko Widodo said that in the current era of technology disruptions, archive management must use new methods, utilizing advances of the digital technology. The president asked that inefficient, old methods of archive management where archives are all over the place and are hard to access be abandoned.

"I noticed that many countries are competing to innovate in developing

electronic-based archive management, starting from tracking, identifying archives quickly, to preparing registration tools for the preservation of community-owned digital archives," President Joko Widodo said.

Archive management innovation is aimed at government archives and public ones by creating a portal containing content on popular themes and accessible services. In addition, the president also requested a long-term archive security system be developed that is automatically removed from the storage. Innovations are the key to progress that fast archive services should be prioritized, and public and community involvement be encouraged. He stressed that data in the regions must also be integrated. (Ilham Wiryadi M./Nur R.)

Attributes of State Administrative Law in Government Sector

IN THIS public lecture, Guntur discussed the attributes of state administrative law, which regulates all aspects of the government sector. He believes that constitutional law is related to the status of state institutions, while state administrative law is related to the concept of the authority of a state institution. Therefore, he added, the state administrative law must be observed as a dynamic subject.

Guntur also explained that in the concept of administrative law, the government and the people are equal. This means that products issued by the government must be devoted to the people's interests. In line with this, the people can also participate



in policies that the government has outlined in various norms for the administration of the state. "So, this is what is called a symbiosis between the government and the people concerning state administration," Guntur explained

After explaining the material for state administrative law in detail, Guntur allows the participants to

ask in the Q&A hearing. Miftakhul Shodikin asked about the relevance of political considerations in making discretionary decisions. Guntur replied that in discretion, all decisions would be made by officials subjectively with holistic considerations, including the political aspect. (Sri Pujianti/Lulu Anjarsari P)

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