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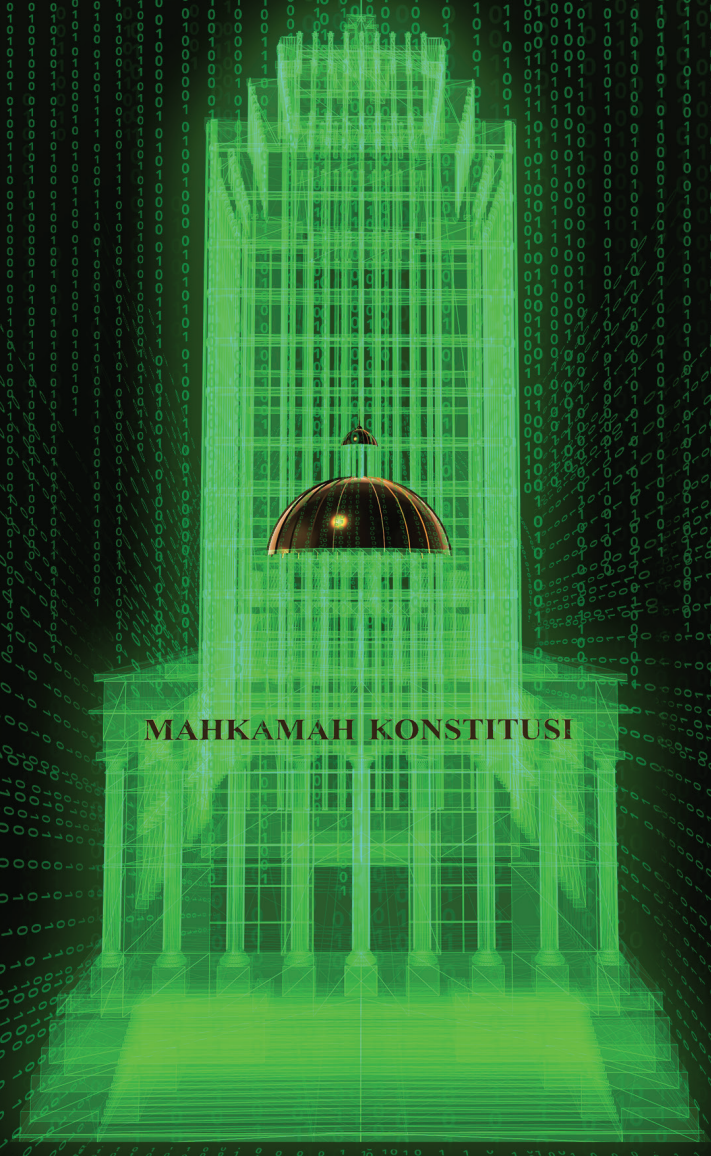
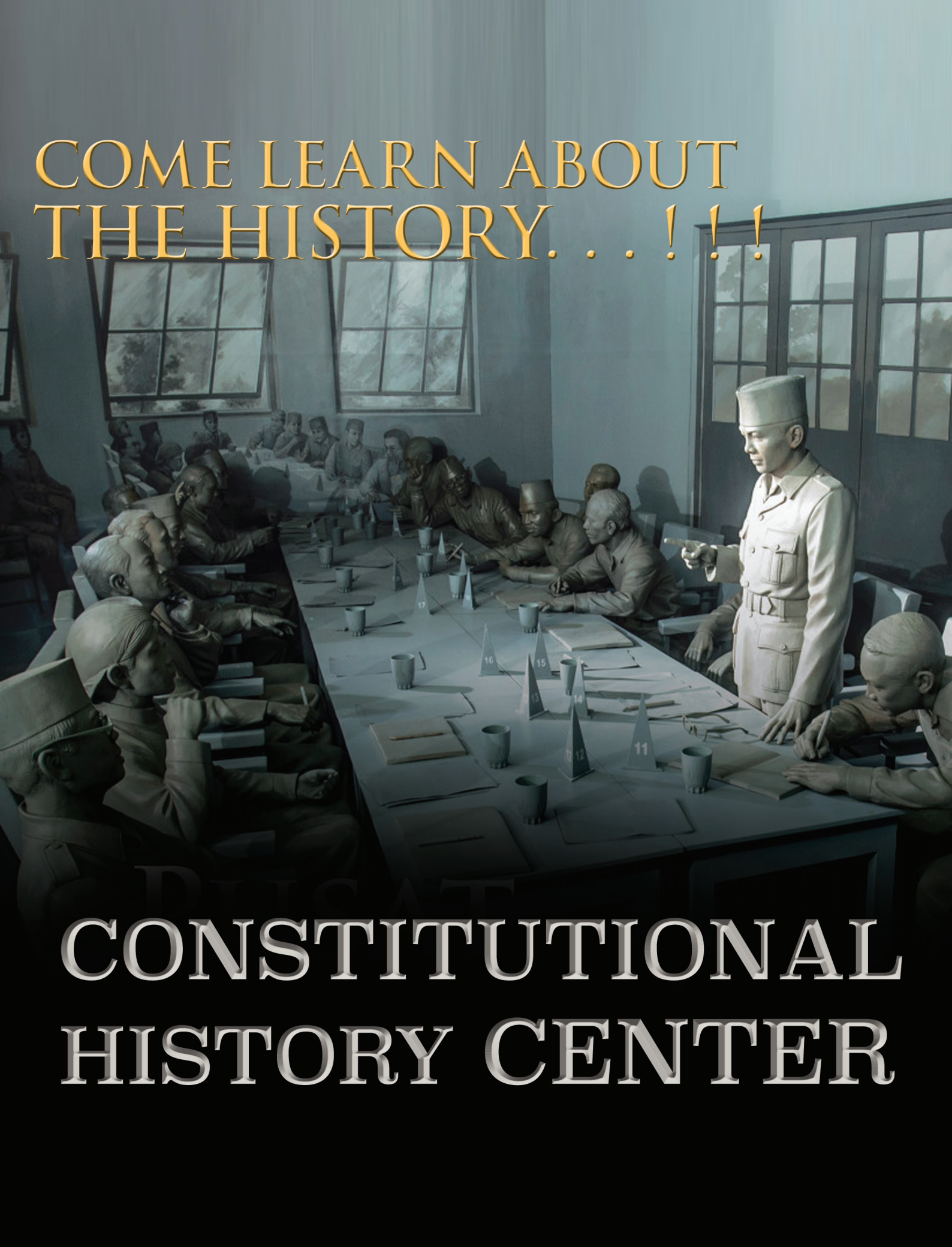


THE DIGITAL TRANSFORMATION FOR CONSTITUTIONAL ENFORCEMENT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THE HISTORY. . . ! ! !
CONSTITUTIONAL
HISTORY CENTER

Editor's Foreword

The increase of the Covid-19 pandemic occurred again in February 2022. Its spread was very rapid. Most of the world's population, including Indonesia and some employees in the Registrar's Office and the Secretariat General of the Constitutional Court, have been infected with the omicron virus. Yet, *Alhamdulillah*, the virus attack did not have a severe effect on most sufferers, such as coughs and flu. In addition to attacking the elderly who have comorbidities and have not been vaccinated, it can be fatal.

The situation happened last February. The office cluster of omicrons spread has become one of the highlights. Many government agencies have made policies to implement Work From Home (WFH) for employees as a preventive and anticipatory step in dealing with the spread of Covid-19.

Regarding the February 2022 edition of Konstitusi Magazine, as usual, we always provide special and interesting rubrics. The Headline News presents the handling of cases of the Constitutional Court which are summarized for 2021. Furthermore, there is the Editorial which is the heart of the magazine's content, as the opinion of the magazine editor.

In addition, there is the *Jendela* (window) rubric which is the view of I Dewa Gede Palguna on current issues related to the constitution. Furthermore, the Opinion rubric contains the public's critical view of the Constitutional Court, the Constitutional Court's decisions, or state administration related to digital culture to strengthen the constitutional culture. Others, there are rubrics on Case Briefs, Verdict, Constitutional Documentation, Traces of the Constitution, and others.

Hence, a brief introduction from the editor. Finally, we wish you a pleasant reading experience!

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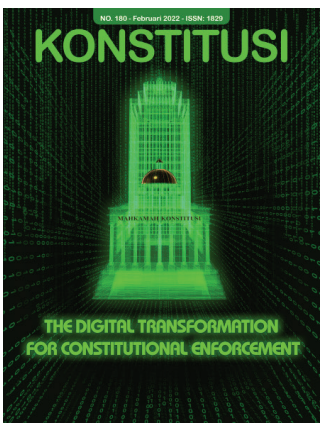
Constitutional judge Saldi Isra was the speaker in the online "Rabu Ngopi" organized by the General Exlection Commission of Serang Regency on Wednesday (26/1/2022).

APPRECIATION FOR TRANSFORMATION

The President of the Republic of Indonesia, Joko Widodo, expressed his appreciation to Constitutional Court (MK) because, during the pandemic, the Court was able to accelerate the transformation of digital justice. "I give my highest appreciation and appreciation to the Constitutional Court (MK) for taking advantage of the pandemic period to accelerate transformation by making the transition to digital justice," the President said while delivering his state address at the Special Plenary Session for the Submission of the 2021 Annual Report held at the Constitutional Court, Thursday (2/10/2022) morning.



The digital transformation process is growing rapidly along with the development of information and communication technology (ICT). Moreover, when the Covid-19 pandemic spread around the world, including Indonesia, ICT had a significant role as a wasilah or media that facilitated human activities and productivity.

Not meant to be overbearing, the fact that digital traces show the Constitutional Court since its inception has declared itself as a "Modern and Trusted Judiciary." This slogan certainly has the consequence that the Constitutional Court must be ready to improve and change in order to maintain its existence as a modern judiciary in line with the demands of the times.

Efforts to transform and innovate ICT in the judiciary certainly can't be separated from challenges and obstacles, both internally and externally. Internally, it takes human resources (HR) who are qualified in mastering ICT as well as being able to apply it in a digital-based justice system. In the external sphere, the justice-seeking community must also know about digital technology developed by the judiciary. In addition, the use of digital technology in judicial institutions must be equipped with a solid regulatory basis.

Long before the Covid-19 pandemic, the Constitutional Court had often held hearing examinations of cases via video conference. When the pandemic affected the world, including Indonesia, there were restrictions on interacting. However, this is not a reason for the Court to postpone the examination of cases because the Court is used to remote hearings.

Behind the difficulties of course there is ease. The pandemic is not a reason to delay justice. Thus, during the Covid-19 pandemic, the hearing was carried out remotely. Moreover, the modern judicial technology ecosystem and the transformation of digital culture are deeply rooted in the Constitutional Court. Like a tree that is fertile and shady, the grip of its roots is strong, its branches soar to the sky, and the tree produces a delicious fruit that provides benefits to the community.

Window

JASSIN

I D.G.Palguna

"I am firmly sure that the world of imagination and reality are two different things. And until now, I still believe that imagination does not deserve to be judged and equated with religious propositions which have their history."

H.B. Jassin.

It's been a while since I visited Ismail Marzuki Park (TIM). Almost two years. Whenever I have the opportunity to go to Jakarta, I always try to take the time to visit a place that has been considered for decades as a symbol of recognition of the achievements of artists from all corners of the country. One of my goals that never changes when I visit this place, which is located at Jalan Cikini Raya 73 Jakarta, is to stop by a kiosk where old (used) books are sold. The location is quite strategic; in the south corner of the XXI cinema building in the back corner of the TIM parking area. The kiosk is "managed" by Jose Rizal Manua—the founding artist and leader of the Tanah Airku Theater. While working at the Constitutional Court, a visit to TIM—to the kiosk to be precise—became like a "mandatory ritual" for me, at least once a month. I can hang out there for hours without any objections at all from the owner. Moreover, after the disappearance of a long row of roadside bookstalls around Senen to Kwitang, I felt that the kiosk was the only place to quench my thirst for "book excursions" to the past—even though recently they had also provided contemporary books.

In the TIM complex, we know that a building "dwells" that holds a priceless treasure of this nation and country: the Literary Documentation Center of H.B. Jassin (PDS). Just as a footnote for those who don't know, the name is taken from the name of the unrivaled literary critic this country has ever had, Hans Bague Jassin—abbreviated as H.B. jassin. Jassin was so authoritative and "powerful" in the world of literature that he was nicknamed the "Pope of Indonesian Literature"—and no one objected to that nickname (P.S: once there was a "rumor" about the story of Remy Sylado's disappointment because of his poetry. The Pope of Literature never spoke about what he called *mbeling* or naughty poetry. Let's read the poem in which he gave the title "TECHNIQUE" below: "I am in poetry/I am in short stories/I am in novels/I am in poetry romance / I am in criticism / I am in essays / I am in w.c. / Who am I? / Answer h.b. jassin." I quoted the poem from Irfai Fathurochman's dissertation in the Postgraduate Language Education Study Program, Semarang State University in 2019 entitled "Existentialism *Mbeling* Poetry by Remy Sylado."

However, the author of the dissertation does not explicitly mention the existence of the poem as a form

of a disappointment for "the naughty poet" against Jassin but as a poem that tells "about the poet who is in every literary work and is considered to have mastered the Indonesian literary world at that time, making it difficult for young poets to appeared with his work." This is written on page 6 of the dissertation).

In PDS, we find unusual collections. For example, just to cite an example, we can find Chairil Anwar's original poem in the handwritten form of the poet who was nicknamed "*Si Binatang Jalang*/The Bitch". We can also find correspondence from famous writers, newspaper clippings, drama scripts, magazines, papers, magazines, scientific works in the field of literature, photos, cassettes (which are now rare items), and others. All of that, at first, Jassin collected diligently and painstakingly with unreserved dedication throughout his life.

There is a touching story behind the founding of PDS. It is said that the collection was originally Jassin's collection which was kept in his private home. Over time, because Jassin had been constantly for years collecting all kinds of things related to the world of literature, including piles of newspaper clippings stored in a mountain of folders, his house became full. Thus, part of the collection was then stored in his office, Balai Pustaka, where he "gaze at" various literary works. However, because Jassin never stopped doing the work that some people might find absurd, his office also suffered the same fate as his home: unable to accommodate the consequences of Jassin's "insaneness". The "heartbreaking" story reached the ears of the Governor of DKI Jakarta at that time, Ali Sadikin—he was said that he was "whispered" by the (deceased) writer Ajip Rosidi. The governor with a marine background who was very visionary was amazed at how important the Jassin collection was for the development of art and culture as the reflection of a nation's civilization. Therefore, he thought, this collection had to be saved. As a result, a building in the TIM complex was officially dedicated as a place to accommodate Jassin's collection. On May 30, 1977, Ali Sadikin inaugurated the name of the building as the Literary Documentation Center of H.B. Jassin. Some of these stories can be read in the memoirs of Ali Sadikin, the governor who was loved by the people of Jakarta, written by Ramadhan K.H., Bang Ali, Demi Jakarta (1966-1977) (Pustaka Sinar Harapan: Jakarta, 1995).

Back to the "addiction", I visited the kiosk owned by Jose Rizal Manua. During a visit on a Saturday in February 2008, I was glad because I found (again) an old novel by Pramoedya "Pram" Ananta Toer, which I used to own but lost to whoever "borrowed" it, On the Edge of Bekasi river. Although not as impressive as Pram's other works, such as *Perburuan, Nyanyi Sunyi Seorang Bisu,* or *tetralogi Bumi Manusia, Anak Semua Bangsa, Jejak Langkah,* and *Rumah Kaca*—which were immediately banned by the New Order Regime. Therefore, rediscovering the novel in its "original" edition (Gapura: Jakarta, 1951) was a pleasure. However, my happiness was "interrupted"—and finally completely distracted—by the serious debate of two people sitting in front of the stall. It was not clear whether they were just kiosk visitors or IKJ students (whose campus is indeed located in the TIM complex). One thing was clear, they were not random people. This could be seen from the debate material they did. They were "battling" over an old matter that remains controversial to this day: whether H.B. Jassin deserved to be tried only because he was adamant that he would not reveal who the real person who used the pen name was Ki Panji Kusmin, the author of the short story *Langit Makin Mendung* in the Sastra Magazine published in August 1968—the magazine in which Jassin sat in charge.

Langit Makin Mendung is a controversial story, not only the short story but (moreover) the court process against it. The space provided by this column does not allow me to fit the short story here, even if it is only a summary. Those of you who are curious can read the full story in Jassin's book, Heboh Sastra 1968: An Accountability (Gunung Agung: Jakarta, 1970) or if you want to get more "aura", you can come directly to PDS. There was an original Literary Magazine that contained the short story. Meanwhile, here, it suffices to say that the short story is a social critique of the state of the country and the regime in power at that time but because it has "contact" with religious (Islamic) aspects, by some Muslims, the short story is considered blasphemy and insult to Islam. A group of youths and teenagers did not only demonstrate but also attack the Sastra Magazine office. In North Sumatra, the Sastra Magazine was confiscated and banned by the North Sumatra High Court. Against the actions of the North Sumatra High Court, some artists have criticized and protested. From Medan, the protests and criticisms came, among others, from short story writer Sori Siregar, author of Z.P. Lubis, journalist writer Z.M. Passe, and others. Meanwhile, from Jakarta, protests and strong criticisms

were made among others by Trisno Sumardjo (the author who was then Chairman of the Jakarta Arts Council), Djaduk Djajakusuma (actor and drama director), Umar Kayam (a poet who at that time was even the Director-General of Radio, Television, and Film), poet Taufiq Ismail, and many others.

Regarding the contents of the short story, the attitudes of the artists are divided—even though from the perspective of the independence of an author's imagination, most are neutral. The author who is also a well-known scholar, Haji Abdul Malik Karim Amrullah (Hamka), who initially thought "neutral" later stated that Ki Pandji Kusmin had created hatred for the Prophet Muhammad. On the other hand, the writer who is also an academic, Bahrum Rangkuti, argues that the intention of the author of LMM (Ki Panji Kusmin) is to remind Muslims not to be trapped by the "political winds" of the regime at that time, c.q. Nasakom, is considered contrary to Islam. A.A. Navis, the author of the famous novel *Rubuhnya Surau Kami,* tends to try to neutralize the situation by saying that it is very important to respect the independence of the author. Therefore, if there are authors who talk about Islam that deviates from the mainstream, there is no need to shake the feelings of Muslims because at this time Muslims themselves no longer consists only of ordinary people so that they will not be easily trapped by deviant teachings. Meanwhile, Achdiat Karta Mihardja, the author of the novel Atheist which is considered one of the important works in post-World War II Indonesia, invites that stories like LMM (and the media that publish them, c.q. Sastra Magazine) should be discussed in an open public discussion attended by experts from various disciplines: writers, philosophers, religious experts, psychologists, sociologists, legal experts and so on so that the public gets a complete picture of the topic and is then invited to formulate their conclusions. In essence, Achdiat Karta Mihardja wants to say that literary works do not deserve to be legally judged.

No matter how huge the intellectual defense against LMM and Jassin, threats and intimidation against him and especially against *Sastra* finally forced Jassin to make an open apology to the public, likewise, so did Ki Pandji Kusmin, the author of the short story. However, the apology did not stop the court proceedings against Jassin. Besides, the Literary Magazine was also banned from publishing. In court, Jassin was adamant that he would not say who the person using the pseudonym (pen name) of Ki Panji Kusmin was. As for the substance of the short story, Jassin argued that it couldn't be judged to be insulting to Islam because it was the imagination of the author.

In Jassin's view, *Langit Makin Mendung* (LMM) is just a fictional story that depicts the imagination of the author. Imagination is certainly incompatible and coherent if it is judged and treated as reality. LMM is not a religious interpretation at all. Therefore, it is wrong to say that it is insulting to religion. It is a literary work that contains social criticism, not a religious work. How can a literary work, which depicts the imagination of its author and has its own rules of logic, be judged by a logic that applies to empirical reality, let alone religious dogma? According to Jassin, people objected to LMM because at first, they read it with prejudice based on religious sentiments so it was not clear to see the whole context of the story. In addition, another objection stems from the mistake of juxtaposing an author's imagination with religious teachings and scriptures. While the other causes of objections are originating from a lack of understanding of language style and literary nuances. The nuance and style of language that feels "hit" in this short story made it feel like blasphemy. However, the prosecutors and judges did not consider Jassin's argument at all. They have their own "logic" in seeing this case. So, H.B. Jassin was found guilty and sentenced to one year in prison with probation of two years.

For me, Jassin's attitude and stance at *Langit Makin Mendung* trial was not only a defense of the freedom of expression and at the same time the full responsibility of a leader of a press institution, but also a firm statement of one's belief—as reflected in the quote at the beginning. this paper—that imagination can't be limited. Therefore, judging the imagination is an absurd act. "Imagination is the life of mental freedom," said Khalil Gibran. How to limit it—let alone prosecute it? When this article was written, some components of the Gorontalo community were actively gathering support through the distribution of a petition for H.B. Jassin to be declared a national hero. I co-signed the petition. He deserves it. Jassin has dedicated almost his entire life to the world of Indonesian literature. Without it, the "map" of the Indonesian literary world would be very different—in fact, perhaps, some of it would still be *terra incognita*.

PROTOKOL PERSIDANGAN
MAHKAMAH KONSTITUSI

WAJIB MEMAKAI MASKER, SARUNG TANGAN,
CEK SUHU TUBUH, DAN MENJAGA JARAK

PARA PIHAK DAPAT MENGHADIRI PERSIDANGAN
MELALUI SIDANG SECARA VIRTUAL

MENERAPKAN PEMBATASAN KEHADIRAN DI RUANG
SIDANG BAGI PARA PIHAK MAKSIMAL 2 ORANG

MELAKUKAN PENYEMPROTAN DISINFEKTAN
TERHADAP SELURUH SARANA DAN PRASARANA
PERSIDANGAN YANG MELIPUTI RUANG SIDANG,
RUANG TUNGGU SIDANG, RUANG PEREKAMAN
SIDANG, TOILET DAN SELURUH PERLENGKAPAN

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THE CONSTITUTIONALITY OF THE IKN AUTHORITY

Rino Irlandi
Alumni of Constitutional Law Faculty of Law Sriwijaya University

At the annual assembly of the MPR/ People's consultative assembly which took place last year, President Jokowi expressed his desire to move the country's capital city to East Kalimantan. He stated that the purpose of the transfer was to achieve equitable development and economic justice, which had been focused on Java.

This desire was finally realized after the IKN (New Capital City) Bill proposed by the Government was approved by the majority of factions in the House of Representatives. It was noted that only the PKS faction refused. Meanwhile, the other factions: PDI-P, Golkar, Gerindra, Nasdem, PPP, PKB, Democrats, and PAN agreed to the proposal. The votes fill sufficient support to pass the IKN Bill into law.

There are several critical notes submitted by the public for the approval of this IKN Bill into law. First, the process of forming the IKN Law is considered formally flawed because it takes a relatively short time of formation (only 43 days) and minimal public participation.

Second, the issue of giving the name Nusantara as the name of the State Capital is considered inappropriate. Third, the issue of a special government authority that will administer the government in the new capital city is considered unconstitutional because the constitution (UUD 1945) does not recognize the term authority government.

Concerning these three issues, this paper will discuss the constitutionality of special government authorities. The author considers this issue important because several national figures have already prepared to submit a judicial review to the Constitutional Court. Thus, there is potential for the development of the new capital to stall if the Constitutional Court turns out to declare the IKN Law unconstitutional.

Constitutional Interpretation

To conclude whether an article is in constitutional law or not, an interpretation is needed of the intent of the article in the law to be reviewed and the constitutional article that is used as a touchstone.

The interpretation is carried out with a variety of interpretation methods that are free to choose and use. According to Jimly Asshiddiqie (2006), there are 23 methods of legal interpretation. However, to assess the constitutionality of the government specifically for the IKN (New Capital City) authority, the author will only use one method of interpretive approach, namely the method of interpretation of originalism.

The originalist interpretation approach is an interpretive method that focuses on the interpretation of an article in the constitution based on the understanding and purpose of the formation of an article based on the understanding of its founder (Saldi Isra: 2010). The will, purpose, and understanding of the formulator of the constitutional article were the main references for interpreting the intent of an article in the constitution.

The search for the will, objectives, and understanding of the formulators of the articles of the constitution is traced from the minutes of the session on the formation of the constitution. In this case, the author will use the Comprehensive Manuscript of Amendments to the 1945 Constitution published by the Constitutional Court (MK), which contains the minutes of the hearing and debates that formed the 1945 Constitution which took place from 1999 to 2002.

Meanwhile, the reason the author used the method of interpretation of originalism to assess the constitutionality of special government authorities was that this method is often used by Constitutional Court judges. This is based on the research of Muchammad Ali Safa'at, Aan Eko Widiarto, and Fajar Laksono Suroso on the pattern of constitutional interpretation in the Constitutional Court decisions for the 2003-2008 and 2009-2013 periods.

Based on this research, it was found that: (1) originalist interpretations were more common or frequently used by Constitutional Court's judges when deciding cases; (2) the originalist interpretation method is not only used by the judges of the Constitutional Court for a certain period but is commonly used by all judges of the Constitutional Court.

Constitutionality of the Authority

In Article 8 of the IKN Law, the regional administration specifically for IKN (New Capital City) Nusantara is the authority of IKN Nusantara. It is a ministry-level institution that operates no later than the end of 2022.

As a consequence of the placement of the IKN Nusantara authority as a ministry-level institution, Article 9 paragraph (1) of the IKN Law states that the head and deputy of the IKN Nusantara authority are appointed, appointed, and appointed directly by the President after consulting with the House of Representative.

The existence of these two articles in the IKN Law indicates the uniqueness and uniqueness of the IKN regional government compared to governments in other regions.

If in other areas the head of government is the Governor, Regent, Mayor who is elected by the people through general elections, then IKN Nusantara is led by the head and deputy authorities who are appointed by the President after consulting with the House of Representative.

In addition, the IKN Nusantara government also does not recognize the existence of regional people's representatives or Regional People's Representative Assembly as in other regions. This can be seen from Article 13 paragraph (1) of the IKN Law which does not mention the Regional People's Representative Assembly election as one of the elections to be held at IKN Nusantara.

The uniqueness and peculiarity of the Nusantara IKN, according to the team that formed the IKN Law, is intended as a special regional government as mandated by Article 18B paragraph (1) of the 1945 Constitution. In full this article reads: The state recognizes and respects special or special regional government units that are regulated by the law.

However, is it true that the form of government of the IKN Nusantara authority is a special regional government unit referred to as forming Article 18B paragraph (1) of the 1945 Constitution?

If we read carefully the minutes of the session for the formation of the 1945 Constitution in Book IV Volume 2 of the Comprehensive Manuscript of Amendment to the 1945 Constitution, initially, the special regional government in Article 18B paragraph (1) of the 1945 Constitution is the original government of Indonesia.

The original Indonesian government referred to Soepomo's opinion as Chairman of the Small Committee for Drafting the 1945 Constitution in a large meeting that took place on July 15, 1945. He interpreted the original government as a type of government of kingdoms, hamlets, countries, clans, autonomous regions, and sultanates which during the Dutch colonial era allowed to be run by the people of Indonesia.

However, this interpretation was later expanded when several participants in the session on the formation of the 1945 Constitution which took place in 1999-2002 at the People's consultative assembly called DKI Jakarta, Aceh, Yogyakarta, and Papua as one form of special and special regional government.

For the expansion of the interpretation, Bagir Manan who was present as a constitutional expert did not blame this opinion. He understood and accepted this opinion as long as it was mutually agreed upon by the hearing participants, who throughout the hearing no one objected.

Therefore, DKI Jakarta, which at that time was the capital city of the State, was recognized as a form of special regional government. This specificity can be seen from the absence of elections to elect the Mayor and Regional People Representative Assembly at the Regency/City level in the DKI Jakarta Province.

The thing that needs to be underlined for giving specialization to DKI Jakarta is because this area is the territory of the State Capital. So, with the shift of the state capital to IKN Nusantara after the enactment of the IKN Law, the form of government of the Nusantara IKN authority is a special and special form of regional government referred to as forming the 1945 Constitution which is constitutional and does not conflict with the 1945 Constitution.

Hence, the mechanism for filling in the heads and deputy heads of the IKN Nusantara authority still needs to be criticized. During the transition period for the nation's capital city, the President may need to appoint the head and deputy head of the IKN Nusantara authority directly to accelerate development. However, when the transition period is over and the administration of government in IKN Nusantara has returned to normal, then the head and deputy head of the IKN Nusantara authority must be directly elected by the people through general elections as a form of embodiment of democracy.

THE APPRECIATION FOR CONSTITUTIONAL COURT

FOTO: RUSMAN - BIRO PERS SEKRETARIAT PRESIDEN

I give my highest appreciation to the Constitutional Court (MK) that took advantage of the pandemic period to accelerate transformation by making the transition to digital justice. I also appreciate the MK's spirit to adapt to technological advances to create a faster and more flexible work situation.

I believe that with the transformation carried out, the Constitutional Court will find the momentum to prepare broad steps to leap progress, strengthening its role as bodyguard and guardian of the constitution.

The government does not always agree with the views of the Constitutional Court in its decisions, but the government always accepts, always respects, and implements the decisions of the Constitutional Court. Because that is what the law provides.

The 1945 basis, namely the Constitutional Court Verdict is final and binding. I hope that the Constitutional Court can continue to make decisions that provide solutions to state problems in upholding the constitution and continue to build a balance between certainty, justice, and expediency. The Constitutional Court's verdict is not only sufficient to provide legal certainty but must also provide a sense of justice. The Constitutional Court's decision must benefit the life of the nation and state and make the greatest contribution to the prosperity of the people and the progress of the country."

**) President Joko Widodo's speech in the Special Plenary Session for the Submission of the 2021 Constitutional Court Annual Report was delivered on Thursday, 10 February 2022 at the Constitutional Court Building.*

THE ANNUAL REPORT SPECIAL PLENUM OF CONSTITUTIONAL COURT IN 2021

It was still early. The atmosphere of the Constitutional Court (MK) building looked different from other days. Some personnel from the Presidential Security Forces (Paspampres) along with the Indonesian National Police (TNI) and the security guard of the Court were seen on guard.

Sunny weather accompanied by a light fog hangs in the heart of the capital city of Jakarta. That morning, Thursday, February 10, 2022, the Constitutional Court held a Special Plenum for the Submission of the 2021 Annual Report. The President of the Republic of Indonesia Joko Widodo and some heads of state institutions were scheduled to attend this event.

The Protocols of the Presidential Palace and the Protocols of the Constitutional Court were seen busy arranging the preparations for the event. Media Court was also ready to direct the eyes of the camera to document this annual moment. The day before, Media MK had set up documentation equipment at strategic points to get a good angle. Some media crew also did not want to miss to obtain information directly from the location of the event.

The Special Plenum for the Submission of the 2021 Annual Report was held during the Covid-19 pandemic. Of course, the implementation of the event followed the Health protocol to prevent the spread of Covid-19. Guests and media crew who want to enter the area of the Constitutional Court Building had to be free of Covid-19. The MK Medical Team was also deployed to carry out an antigen swab test. In short, the area of the Constitutional Court Building must be sterile in terms of security and health. The protection of security and health is a human right that is protected by the constitution.

The traffic situation on Jl. Medan Merdeka Barat was relatively smooth and tends to be quieter than usual. The policy for the implementation of level 3 Community Activity Restrictions (PPKM) in DKI Jakarta affected the activities of residents. Government offices implement a work from home (WFH) policy for some of their employees to prevent the spread of COVID-19. No exception in the Constitutional Court, some employees of the Constitutional Court carry out their duties in a WFH manner.

Traffic was quiet for a moment when the convoy of vehicles left the Republic of Indonesia State Palace. The distance from the State Palace to the Constitutional Court Building was about 650 m. Thus, it didn't take long for the voorijder to arrive at the Constitutional Court Building. A Mercedes Benz car with an RI 1 license plate drove to the entrance of the Constitutional Court Building, then stopped right at the side of the three steps.

The President of the Republic of Indonesia, Joko Widodo, arrived at the Constitutional Court Building at 09.50 WIB. He was welcomed by the Chief Justice of the Constitutional Court Anwar Usman and the Deputy Chairperson of the Constitutional Court Aswanto. Next, the President together with the Chief Justice of the Constitutional Court and the Deputy Chairperson of the Constitutional Court walked the main stairs to the Plenary Meeting Room which is located on the lt. 2 Constitutional Court Building. This is where the Special Plenary Session was held. Some invitees were already present in the event room before the President entered the Plenary Session Room.

Nine Constitutional Justices entered the Plenary Session Room together. Exactly at 10.00 WIB, the Chief Justice of the Constitutional Court knocked the hammer as a sign of the start of the 2021 Annual Report Submission Special Plenary Session with the theme "Digital Transformation for Constitutional Enforcement".

The Constitutional Court held this Special Plenary Session to increase and maintain public trust by continuing to prioritize the principle of openness.

The Special Plenum is held based on the provisions of Article 13 of the Constitutional Court Law and is a form of institutional awareness to fulfill the public's right to know what has been done in carrying out its mandate and authority.

The Special Plenum was held offline and online through the Zoom Meeting application and the Constitutional Court's Youtube channel. The President attended offline with several guests, including the Chief Justice of the Supreme Court (MA) HM Syarifuddin, Chair of the Regional Representative Council (DPD) La Nyalla Mattalitti, Coordinating Minister for Political, Legal and Security Affairs (Menko Polhukam) Mohammad Mahfud MD, Minister for Political, Legal and Security Affairs. State Secretary (Mensesneg) Pratikno, Cabinet Secretary Minister (Menseskab) Pramono Anung, Commander of the Indonesian National Armed Forces (TNI) Andika Perkasa, Chairman of the Judicial Commission (KY) Mukti Fajar, Chairman of the General Election Commission (KPU) Ilham Saputra. Some of the guests attended online through the Zoom Meeting application, including the Chairman of the People's Consultative Assembly (MPR) Bambang Soesatyo, Chairman of the Supreme Audit Agency (BPK) Agung Firman Sampurna, and Chairman of the General Elections Supervisory Body (Bawaslu) Abhan. Some representatives from AACC and WCCJ Member countries, ambassadors from friendly countries, and academics were also present.

The President Appreciated Constitutional Court Transformation

The President of the Republic of Indonesia Joko Widodo in his speech expressed his appreciation to the Constitutional Court because, during the pandemic, the Court was able to accelerate the transformation of digital justice. The President believes that with the transformation carried out, the Constitutional Court will find the momentum to prepare broad steps to leap progress, strengthening its role as guardian and guardian of the constitution.

"I give my highest appreciation to the Constitutional Court (MK) that took advantage of the pandemic period to accelerate transformation by making the transition to digital justice. I also appreciate the Constitutional Court's spirit to adapt to technological advances to create a faster and more flexible work situation," stated the President.

In these two years, President Jokowi said that there were dynamic constitutional dynamics with many countries taking extraordinary steps to deal with the crisis caused by the pandemic. This is a real challenge and test for the Indonesian people in constitutional practice. This reason also makes the Government take more responsive steps while still prioritizing the interests of the community. The government ensures that all policies are chosen with measurable reasons based on the careful consideration to save the nation.

"I hope that the Constitutional Court can continue to make decisions that provide solutions to state problems in upholding the constitution and continue to build a balance between certainty, justice, and expediency. The Constitutional Court's decision is not only sufficient to provide legal certainty but must also provide a sense of justice. The decision must benefit the life of the nation and state and make the biggest contribution to the prosperity of the people and the progress of the country," added the President.

Constitutional Court Judicial and Non-Judicial Achievements in 2021

Chief Justice of the Constitutional Court Anwar Usman accompanied by eight constitutional judges in his report explained the results and achievements of the Constitutional Court throughout 2021. In the judicial aspect, Anwar said that the handling of constitutional cases until the end of 2021 was 277 cases for three authorities, namely 121 PUU/ judicial review cases, 3 SKLN cases, and 153 dispute cases. election results. Of these cases, as many as 253 cases have been decided, with details of 99 decisions on PUU cases; 3 SKLN cases, and 151 decisions on disputes over election results.

"Thus, until the end of 2021, 22 judicial review cases are still in the process of being examined, while all SKLN/ disputes on the authority of state institutions cases have been decided, and 2 cases of dispute over the results of the regional elections are still in the process of being examined," said Anwar.

Furthermore, Anwar explained the non-judicial aspects of the Court. All programs and activities during 2021 have been carried out by the Constitutional Court properly and optimally.

For example, there are information and communication technology development programs, increasing understanding of citizens' constitutional rights, strengthening

organizations and institutions, research and studies, domestic and foreign cooperation, bureaucratic reform, strengthening anti-corruption culture, and structuring digital archives.

Besides the Guardian of the Constitution, the Constitutional Court has also performed its function as the Guardian of State Ideology. In this function, continued Anwar, the Constitutional Court through the Pancasila and Constitutional Education Center held a program to increase understanding of the values of Pancasila and the Constitution. Throughout 2021, a total of 11 activities have been held. It consisted of activities to increase the understanding of citizens' constitutional rights, legal technical guidance on judicial review procedures, and legal drafting technical guidance.

Furthermore, in dealing with non-judicial aspects, the Constitutional Court continues to improve the quality and scope of cooperation with various parties, both at home and abroad. The Constitutional Court together with universities as intellectual partners signed some Memorandums of Understanding to support the smooth running of remote hearings. In this case, continued Anwar, the Court facilitated 53 smartboard mini courtroom devices in 50 universities and 3 villages that the Court had confirmed as Constitutional Villages, namely Galesong Village in Takalar Regency, South Sulawesi, Bangbang Village in Bangli Regency, Bali, and Nagari Pasia. Laweh in Agam Regency, West Sumatra.

The Role of Global

Regarding the form of foreign cooperation, the Constitutional Court is increasingly expanding the scope of cooperation, both bilaterally, regionally, and globally. At the regional level, the Constitutional Court is actively involved in the Association of Asian Constitutional Courts and Equivalent Institutions. In addition, the Indonesian Constitutional Court together with the Turkish Constitutional Court, the Algerian Constitutional Council, and the Pakistan Supreme Court initiated cooperation between judicial bodies in the countries of the Organization of the Islamic Conference.

This agenda, explained Anwar, had also been held by the Republic of Indonesia by hosting the Second Conference of the Judicial Conference of Constitutional and Supreme Courts/Councils of the OIC Member States/Observer States (J-OIC) in September 2021. Furthermore, at the global level, the Constitutional Court takes part in the World Conference on Constitutional Justice (WCCJ) which consists of constitutional courts of 118 countries. Based on the Istanbul Declaration in 2018, the Constitutional Court of the Republic of Indonesia has been planned as the host of the Fifth WCCJ Congress which will be held in Nusa Dua, Bali, in October 2022.

Award

In 2021, the Constitutional Court received some awards, including the Public Information Openness Award from the Central Information Commission (KIP) as a Public Agency in the "Informative" Category; Award from the Ministry of State Apparatus Empowerment and Bureaucratic Reform as a Public Service Provider in the "Excellent" Category in 2020; Award Charter for Budget Performance for Fiscal Year 2020 in the Group of State Ministries/Institutions in the Small Ceiling Category; and the Information and Communication Technology Center of the Constitutional Court won the corruption-free Area Predicate or WBK.

The following points need to be conveyed, said Anwar, that in December 2021 the Constitutional Court had produced 66 icons of the Constitutional Rights of Citizens or i-HKWN. This right is created to become an instrument to facilitate the public in recognizing, knowing, and understanding the existence of the constitutional rights of citizens guaranteed by the 1945 Constitution.

"All the achievements of the Constitutional Court in 2021 will be the starting point for efforts to leap forward to continue to improve performance and performance. Hopefully, this annual report is useful as well as being able to be a mirror and a reflection of the values of openness as well as a starting point for the Constitutional Court to make progress, both this year and in the years to come," said Anwar before ending his speech delivering the year-end report. ■

SRI PUJIANTI, LULU ANJARSARI P., NUR ROSIHIN ANA.

THE TRANSFORMATION OF THE DIGITAL CULTURE OF JUDICIAL INSTITUTIONS

Change is bound to happen. Nothing in this world is permanent except change itself. Change is an unavoidable necessity. Whoever resists change will be eroded by the flow of change. God will not change the condition of a people or institution until they have the initiative to change.

The choice to make changes is a demand of the times. The dynamics of life demand relevant changes, both physical and non-physical changes such as changes in mechanisms, theories, methodologies, definitions, perspectives, vision and mission, and so on.

The rapid and massive development of information and communication technology (ICT) has triggered a global revolution in various aspects of life. The utilization of ICT is one of the answers to the challenges of change. The presence of ICT makes work lighter and easier, and productivity increases. However, ICT is like a double-edged sword that can bring benefits and harm. The utilization of ICT appropriately will bring benefits. On the other hand, the misuse of ICT has caused tremendous harm.

ICT offers new ways, traditions, and cultures to interact. The old traditions inherited from the noble ancestors must be preserved. On the other hand, the emergence of new traditions that are innovative and positively charged should also be adopted. Thus, ICT has become a dynamic medium for acculturating old cultures and new cultures. In this context, of course, awareness is needed in interpreting technological developments. Every citizen, organization, and institution, must be aware of technological developments.

Since its inception, the Constitutional Court (MK) has been proclaimed as a "Modern and Trusted" judicial institution. This can be traced from digital footprints when the Constitutional Court was established in 2003. At that time, the Constitutional Court did not yet have its permanent office building. Prof. Dr. Jimly Asshiddiqie, as the elected Chief Justice of the Constitutional Court, used his cellphone communication as an office address for correspondence and for filing constitutional cases.

The Court's office at that time was still moving. Initially, the Court rented the Santika Hotel room on Jalan KS Tubun, Slipi, West Jakarta, to serve as a temporary office. Not long after, the Court moved offices by renting a room at the Plaza Centris Building on Jalan H.R. Rasuna Said, Kuningan, South Jakarta. While having offices at Hotel Santika and Plaza Centris, the Constitutional Court still had to rent the Nusantara IV Building (Pustaka Loka) in the MPR(People's consultative assembly)/ DPR(House of Representatives) Complex. Even one of the rooms in the Police Headquarters Building on Jl. Trunojoyo No.3, South Jakarta, and one of the rooms at the RRI Office, on Jl. Medan Merdeka Barat No. 4 was also used as a courtroom because at that time the Court did not yet have a representative courtroom. Furthermore, from June 2004 to August 2007 the Court occupied the building at Jalan Medan Merdeka Barat No. 7 Central Jakarta belongs to the Ministry of Communication and Information (Kominfo). In this building, the Court can only hold a hearing in its own office.

However, the available space and facilities are still inadequate, especially when the Constitutional Court has to deal with cases that accumulate and require sophisticated supporting equipment, as happened in the 2004 General Election.

The handling of constitutional cases has problems when there is no relevant and reliable support. The power of support is in the form of support for judicial administration and general administration. In addition, the use of ICT in case handling also has a big role in accelerating case handling so that it becomes more effective and efficient. To achieve this, the Constitutional Court compiled a blueprint on "Building the Constitutional Court as a Modern and Reliable Constitutional Court Institution" from 2005 to 2009.

Coinciding with the 4th anniversary of the Constitutional Court, precisely on August 13, 2007, the Court occupied a permanent building at Jalan Medan Merdeka Barat No. 6 Central Jakarta. The new era of using ICT found its momentum when the Constitutional Court moved to a modern and neo-classical style building which until now has become an office space as well as a place for holding courts. The Constitutional Court developed application features on the www.mkri.id page to provide convenience for justice seekers. The litigants and the general public can access all public information about the Constitutional Court on this page. Information about judicial administration and general administration is provided there. The Constitutional Court also used ICT as a support for the hearing. The hearing of cases can be carried out remotely.

Hearing During The Pandemic

When the tragedy of the Coronavirus Diseases 19 (Covid-19) pandemic occurred around the world, including Indonesia, various sectors of life were affected. Office buildings, shops, and places of worship have been closed due to the pandemic. The Constitutional Court building was also closed. Nevertheless, activities in the Constitutional Court continue to run on an ICT-based basis. The Constitutional Court continues to open access to justice services for people seeking justice online through simpel.mkri.id page. Constitutional Justices and Constitutional Court employees continue to work from their respective homes via the internet.

The Constitutional Court's ICT innovation has formed a digital culture ecosystem within the internal scope. The Constitutional Court continues to develop integrated internal applications to improve the efficiency of support for judicial administration and general administration. For example, the Dynamic Archive Information System (SIKD) to support the internal performance of the Constitutional Court is part of the knowledge management of the Constitutional Court. SIKD is here as a solution to archive management problems that are fast and easy to find when needed.

The pillars of the constitution must stand upright. The pandemic is not the reason to postpone the hearing. Moreover, the Court is used to holding hearing remotely. A digital culture ecosystem has also been formed in the Constitutional Court. In early 2021, when the pandemic was still hitting, the Constitutional Court held a hearing for disputes over the results of the regional head election (PHP Kada), legal testing, and a virtual hearing of authority disputes between state institutions (SKLN). In the midst of the busy hearing, the Constitutional Justices are also active in delivering material on a national and international scale virtually. Likewise, activities in the context of understanding the constitution will also continue to be held virtually during a pandemic.

Justice must not be delayed, especially if the delay actually results in injustice. There is always a way out behind the difficulties and challenges in jihad and ijtihad to uphold justice in the judiciary. The use of ICT and the establishment of a digital culture ecosystem in the Constitutional Court is a solution to overcome the impasse in upholding justice, especially during the pandemic. ■

NUR ROSIHIN ANA.

PHOTO GALLERY OF PLENUM
2021 ANNUAL REPORT

FOTO: RUSMAN - BIRO PERS SEKRETARIAT PRESIDEN

HANDLING OF CONSTITUTIONAL CASES IN 2021

Chief Justice of the Constitutional Court Anwar Usman in the Special Plenary Session/Plenum for the Submission of the 2021 Annual Report which took place on Thursday (10/2/2022) at the Constitutional Court Building

Entering the second year of the pandemic, the Constitutional Court (MK) has not stopped exercising its authority. In 2021, the Constitutional Court maximized the use of information and communication technology (ICT) to exercise three powers; such as adjudicating at the first and final levels whose decisions are final in order to examine laws (UU) against the Constitution and decide on disputes over the authority of state institutions whose authority is granted by the Constitution. As well as examining and adjudicating Disputes on the Results of Regional Head Elections (PHP Kada).

FOTO: RUSMAN - BIRO PERS SEKRETARIAT PRESIDEN

As a judicial institution, the Constitutional Court carries the vision of being a modern and trusted judiciary. Chief Justice of the Constitutional Court Anwar Usman—in his speech delivered at the Special Plenary Session for the Submission of the 2021 Annual Report—mentioned that this vision was seen in two main characters. First, the judiciary with a working system based on information and communication technology (ICT). Second, the judiciary with human resources who have an advanced mindset and culture set.

"The two characters referred to are key, as well as modern and reliable benchmarks, which are actualized into some conditions, including (i) cutting time in terms of case handling procedures; (ii) avoiding the practice of corruption, collusion, and nepotism; (iii) realizing efficient, effective, transparent and accountable work processes; and (iv) improving the quality of service to the public," said Anwar in the hearing which took place on Thursday (2/10/2022).

Court process

The Covid-19 pandemic must be recognized as spurring the acceleration of technological transformation in all fields, including law enforcement. This acceleration was also carried out by the Constitutional Court by making some adaptations in order to become a modern and trusted judiciary. For example, online remote hearings have been regulated in PMK Number 1 of 2021 concerning the Implementation of Remote Sessions.

In fact, remote hearings are not a new thing applied in the Constitutional Court (MK). This is because the Constitutional Court has implemented hearings using video conferencing (video conference/ vicon) for a long time. However, the implementation of the remote court hearings is undergoing a transformation by utilizing the latest vicon technology—through the use of Zoom Meetings—for litigants. The litigants now no longer need to come directly to the Constitutional Court's Building for a meeting. Further, the general public can directly watch the Court hearings on the Constitutional Court's YouTube channel, which are open to the public.

However, there are different hearing methods for the authority to judicial review (PUU) with the Regional Head Election Results Dispute (PHPKada). Suppose the

Court carried out a judicial review (PUU) examination hearing online without the presence of litigants in the courtroom. In that case, the case is different from the PHP Kada examination hearing.

In the PHP Kada hearing, the Constitutional Court applied a hybrid hearing pattern by combining the online and offline hearing processes together. The implementation of this pattern is because, in the evidentiary process, constitutional judges often examine the evidence directly presented by the litigants. The Constitutional Court carried out the hearing process, including examining, hearing, and deciding on the PHP Kada 2020 case, which will be processed in 2021.

Case Handling

Concerning the case handling, the Constitutional Court, in carrying out its authority for 18 years, was recorded to have received as many as 3,341 cases for four authorities that have been carried out, including the Judicial Review (PUU), Disputes on Authority of State Institutions (SKLN), Disputes on General Election Results (PHPU), and Disputes on Regional Head Election Results (PHP Kada). Of the 3,341 cases, 1,501 are PUU cases, 29 are SKLN cases, 676 are PHPU cases, and 1,135 are PHP Kada cases.

Of the 3,341 cases above, until the end of 2021, a total of 3,317 cases (99.28%) have been decided, and 24 cases (0.72%) are still being examined.

A total of 3,317 case decisions consist of 1,479 decisions on PUU cases, 29 decisions on SKLN cases, 676 on PHPU cases, and 1,133 decisions on PHP Kada cases. By the end of 2021, 2 PHP Kada cases are still in the process of being examined. Both cases were registered on December 22, 2021.

As for the decision consisting of 3,317 decisions, 420 decisions were granted; 1,457 decisions were rejected; 1,157 could not be accepted; 202 decisions were withdrawn; 64 decisions

Kanal Youtube Mahkamah Konstitusi RI

CONSTITUTIONAL COURT CASES BASED ON AUTHORITY

declared that the Constitutional Court had no authority 17 decisions were annulled.

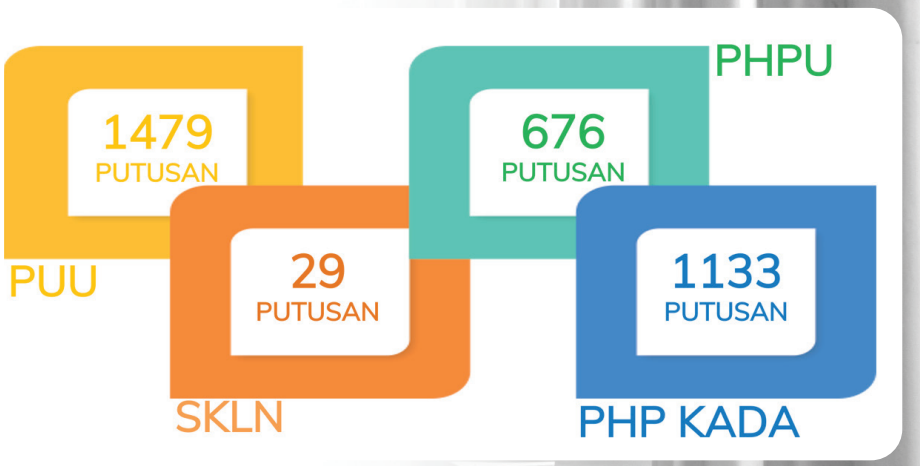
Meanwhile, in 2021, the Constitutional Court handled 277 cases for three authorities, including 121 PUU cases, 153 PHP Kada cases, and 3 SKLN cases. Of the 277 cases, the Constitutional Court has decided as many as 253 cases, including 151 PHP Kada cases, 99 PUU cases, and 3 SKLN cases.

Judicial Review

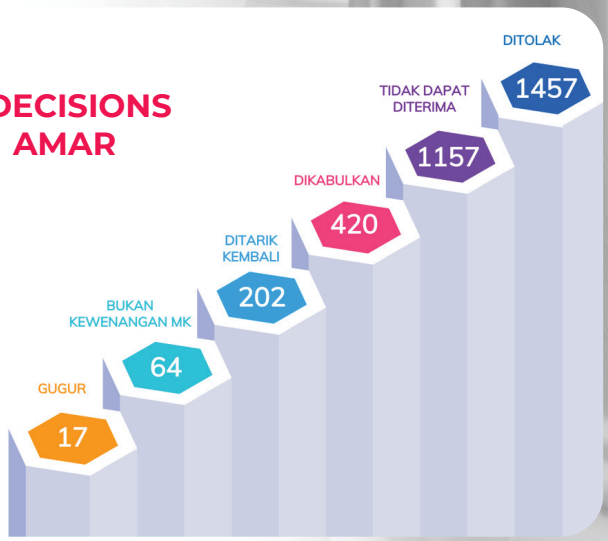
Concerning the judicial review, the Constitutional Court has registered as many as 1,501 PUU cases from 2003 to 2021. Of the 1,501 cases, the Court has decided on 1,479 cases (98.53%), and 22 cases (1.47%) are still in the process of being examined. As for the decision, consisting of 1,479 decisions, 282 cases were granted, 531 cases were rejected, 484 cases could not be accepted, 147 cases were withdrawn, 23 cases were annulled, and 12 cases declared that the Constitutional Court had no authority.

In 2021, the judicial review cases handled by the Constitutional Court reached 121 cases consisting

NUMBER OF DECISIONS BASED ON AUTHORITY



NUMBER OF DECISIONS BASED ON AMAR



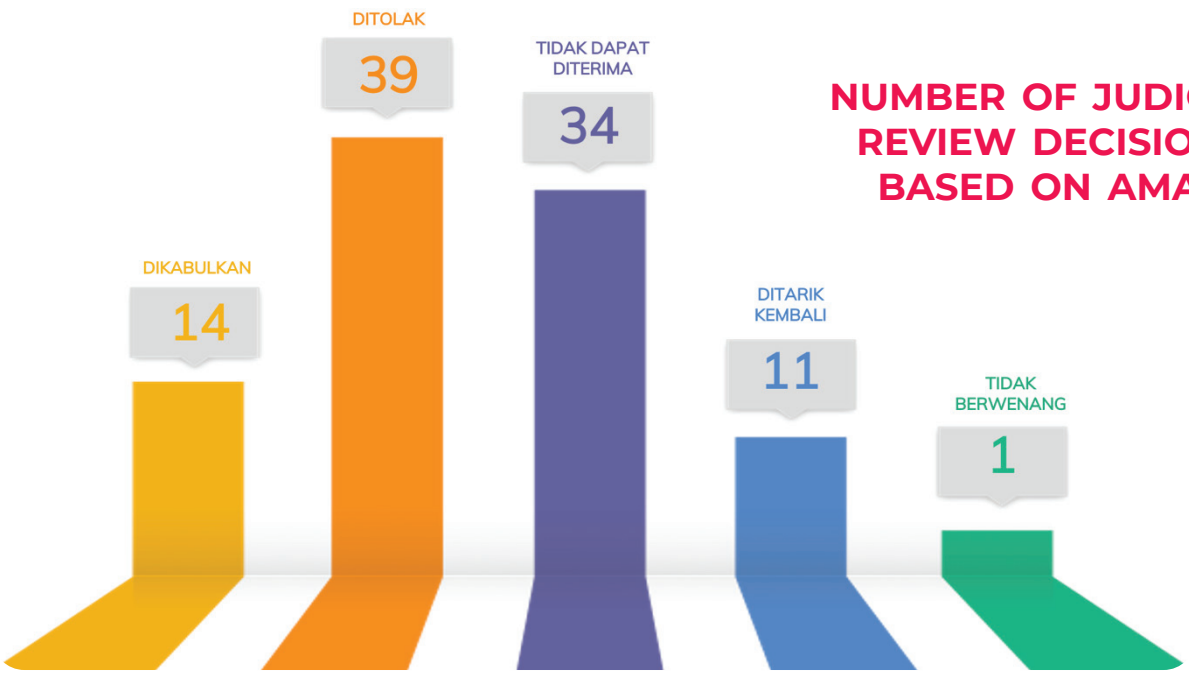
of 71 cases registered in 2021 and 50 cases registered in the previous year.

Of these 121 cases, until the end of 2021, The Constitutional Court has decided on 99 cases, and 22 cases are still in the process of being examined. As for the decision, which consists of 99 decisions, 14 decisions were granted; 39 decisions were rejected; 34 decisions could not be accepted; 11 cases were withdrawn, and one decision declared that the Constitutional Court had no authority

Meanwhile, based on the judicial review throughout 2021, the

NUMBER OF CASES OF JUDICIAL REVIEW

NUMBER OF JUDICIAL REVIEW DECISIONS BASED ON AMAR



MOST FREQUENTLY TESTED LAWS OF 2021

Constitutional Court recorded that those 48 laws were reviewed based on 71 registered cases. Of the 48 laws, five laws are often reviewed as follows.

2020t Regional Head Election Results Dispute (PHP Kada 2020)

The 2020 Governor, Regent, and Mayor Elections were held in 270 regions. Governor elections were held in 9 provinces, Regent elections were held in 224 regencies, and Mayor elections were held in 37 cities. The results of the Governor, Regent, and Mayor Elections in 118 regions were questioned to the Constitutional Court, covering six provinces, 98 regencies, and 14 cities.

Of the 118 regions mentioned above, the Constitutional Court received 157 PHP Kada petitions. The petitions consist of 9 petitions for the Governor and Deputy Governor Election Results Dispute, 133 petitions for the Regent and Deputy Regent Election Results Dispute, and 15 petitions for the Mayor and Deputy Mayor Election Results Dispute. Of the 157 petitions, 89 petitions were submitted online through the Online Petitions on the Constitutional Court website at www.mkri.id. Meanwhile, 68 petitions were submitted directly by the Petitioners to the Constitutional Court Building.

The Constitutional Court registered 153 petitions consisting of 9 cases of Governor and Deputy Governor Election Results Dispute, 130 cases of Regent and Deputy Regent Election Results Dispute, and 14 cases of Mayor and Deputy Mayor Election Results Dispute. Of the 157 PHP Kada petitions, two new petitions were submitted on December 17, 2021, and December 21, 2021.

Until the end of 2021, the Constitutional Court decided on 151 PHP Kada cases. As for the decision, 21 cases were granted; 14 cases were rejected; 103 cases could not be accepted;

Seven cases were withdrawn; 4 cases were declared that the Constitutional Court had no authority, and 2 cases were annulled.

Meanwhile, the two PHP cases of the Regent and Deputy Regent of Yalimo are still in the process of being examined. Based on the decisions, most PHP Kada cases above could not be accepted. This is

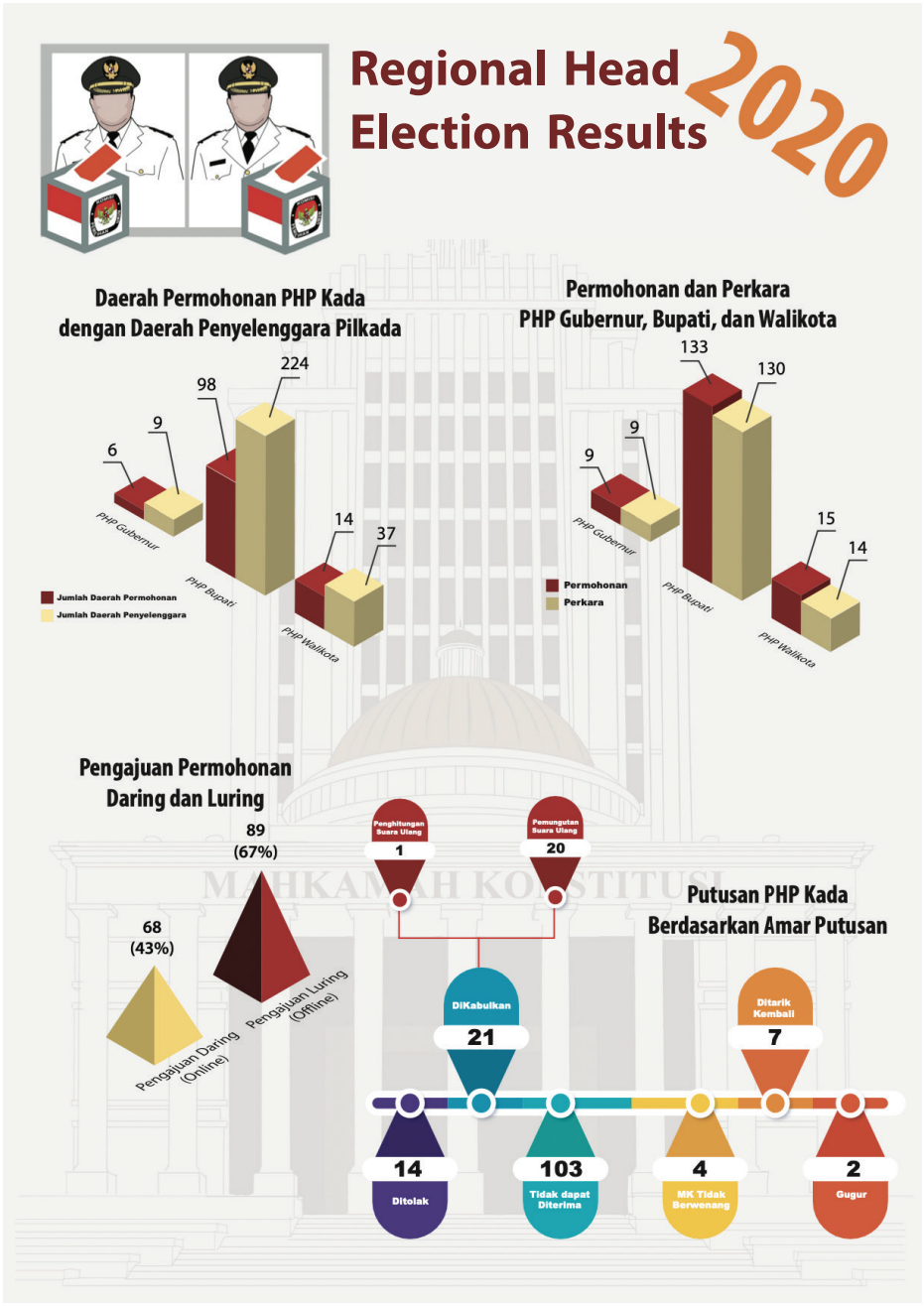
because it does not meet the threshold requirements for vote results for a candidate pair to submit petitions for PHP Kada to the Constitutional Court as regulated in Article 158 paragraph (2) of the Pilkada Law.

However, in some cases, the Constitutional Court deviates from the formal requirements of Article 158 paragraph (2) of the Pilkada Law due to structured, systematic, and massive violations to achieve substantive justice.

Disputes of Authorities of State Institutions

In 2021, the Constitutional Court registered and decided three disputes of authorities of state institutions cases. Based on the decision, 1 case was withdrawn, namely Case Number 1/SKLN-XIX/2021, concerning the disputes of authorities of state institutions (SKLN) between the Papuan People's Assembly and the West Papuan People's Assembly against the President of the Republic of Indonesia. Two cases could not be accepted, namely Case Number 2/SKLN-XIX/2021 and Case Number 3/SKLN-XIX/2021. . ■

LULU ANJARSARI P.

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VERDICT OF JUDICIAL REVIEW DURING FEBRUARY 2022

No	Case Number	Subject Matter of the Case	Petitioner	Verdict	Date	Link
1	71/PUU-XIX/2021	Material Review of the Criminal Code and Law Number 42 of 1999 on Fiduciary Guarantee	Johanes Halim and Syilfani Lovatta Halim	partially granted	February 24, 2022	Click the link
2	1/PUU-XX/2022	Material Review of Law Number 7 of 2017 on General Elections	Musa Darwin Pane	could not be accepted	February 24, 2022	Click the link
3	66/PUU-XIX/2021	Material Review of Law Number 7 of 2017 on General Elections	Ferry Joko Yuliantono	could not be accepted	February 24, 2022	Click the link
4	68/PUU-XIX/2021	Material Review of Law Number 7 of 2017 on General Elections	Bustami Zainuddin and Fachrul Razi	could not be accepted	February 24, 2022	Click the link
5	70/PUU-XIX/2021	Material Review of Law Number 7 of 2017 on General Elections	Gatot Nurmantyo	could not be accepted	February 24, 2022	Click the link
6	5/PUU-XX/2022	Material Review of Law Number 7 of 2017 on General Elections	Lieus Sungkharisma	could not be accepted	February 24, 2022	Click the link
7	6/PUU-XX/2022	Material Review of Law Number 7 of 2017 on General Elections	Tamsil Linrung et al.	could not be accepted	February 24, 2022	Click the link
8	7/PUU-XX/2022	Material Review of Law Number 7 of 2017 on General Elections	Ikhwan Mansyur Situmeang	could not be accepted	February 24, 2022	Click the link

Judge Talks about Law for the Benefit of the People and Authority Constitutional Question

The constitutional judges, together with the institution's authority, continue to promote or propagate information about the law and the constitution as part of the pillars of upholding the law in Indonesia. The following is a portrait of the judges in providing understanding to various institutions, both online and offline, with the implementation of strict health protocols.

Constitutional Justice Arief Hidayat is speaking at a Special Education for Professional Advocates (PKPA) on Saturday afternoon, January 22, 2022. He talked about "Litigating in the Constitutional Court" at the event, which was organized in collaboration between the National Leadership Council of the Indonesian Advocates Association (DPN Peradi) and the Diponegoro University Faculty of Law, and the Alumni Association of the Faculty of Law of Diponegoro University (IKA FH Undip)

Constitutional Justice Daniel Yusmic P. Foekh was the speaker of the Special Advocate Profession Education (PKPA) Batch IV, which was organized in collaboration between the West Jakarta branch executive board (DPC) of the Association of Indonesian Advocates (Peradi) and IBLAM Higher School of Law (STIH IBLAM) on Saturday, January 22, 2022. Justice Daniel discussed the material entitled "The Constitutional Court's Procedural Law" before 888 participants in this online lecture.

Constitutional Justice Saldi Isra is speaking virtually at Rabu Ngopi organized by the Serang Regency General Election Commission on Wednesday, January 26, 2022.

Chief Justice of the Constitutional Court Anwar Usman delivered a public lecture at the Muhammadiyah Bima Institute of Law (STIH Muhammadiyah) on Monday, January 31, 2022. Chief Justice Anwar Usman gave a public lecture on "The Constitution as a Means for Social Change" at STIH Muhammadiyah Bima Auditorium, West Nusa Tenggara.

Constitutional Justice Daniel Yusmic P. Foekh was a speaker at a webinar for the Graduate School of Law and Faculty of Law of the University of Medan Area. He gave a presentation on "The Constitutional Court's Preparedness Ahead of the 2024 Election Disputes, which took place both onsite and online on Friday, February 4, 2022.

Constitutional Justice Enny Nurbaningsih was a speaker at the Stadium Generale at the Sharia Faculty of the State Islamic Institute (IAIN) of Ponorogo on Friday, February 18, 2022. The event took place online and onsite at the Watoe Dhakon IAIN Ponorogo Building. She delivered a presentation on "The Constitutional Court's Role in Upholding Citizens' Constitutional Rights."

Constitutional Justice Saldi Isra was a speaker at the book launch event "Memahami Seputar Amandemen Konstitusi" (Understanding Constitutional Amendments) by Richard Albert, a constitutional law expert from the University of Texas, Austin, United States. The event took place online and was organized by the Postgraduate School of Airlangga University on Friday, February 18, 2022.

Constitutional Justice Enny Nurbaningsih was the keynote speaker at the National Seminar on "The Institutionalization of the Constitutional Question: Opportunities and Challenges," which was organized for the inauguration of the Yogyakarta Special Region Administrators of APHTN-HAN (the Association of Constitutional and Administrative Law Lectures of Indonesia) for the 2021–2026 period in collaboration with the Faculty of Law of the Islamic University of Indonesia (FH UII) and the Constitutional Court (MK) on Saturday, February 19 online.

Christmas and New Year Celebration (Nataru) and Association Audience

There are so many year-end agendas that must be completed that the Christmas and New Year Celebration (Nataru) at the Constitutional Court has been delayed. Even so, the joy of Christmas and New Year still echoes in our hearts. The following is the documentation of the Christmas and New Year celebration and various other important agendas attended by Constitutional Justices and Constitutional Court (MK) officials.

The big family of the Constitutional Court (MK) celebrated Christmas and New Year at a warm event on Friday afternoon, January 21, 2022, in the Delegation Room of the Constitutional Court. The Constitutional Court's Christian staff members and Constitutional Justices Arief Hidayat, Manahan M. P. Sitompul, Daniel Yusmic P. Foekh, Wahiduddin Adams, and Secretary-General M. Guntur Hamzah attended the celebration.

Ahead of the Constitutional Court's (MK) special plenary session for its Annual Report of 2021, it held a press conference with media people on Tuesday, February 8, 2022, at the hall of its second building.

The Constitutional Court (MK) held a Special Plenary Session on Thursday, February 10, 2022, in the plenary courtroom. The 2021 Constitutional Court Annual Report was entitled "Digital Transformation for Constitutional Enforcement." The Special Plenary Session was an annual event for the Court to report its performance throughout the year. President Joko Widodo and several other guests attended the event on a limited basis.

The Association of Lecturers of Constitutional Law and State Administrative Law (APHTN-HAN) had an audience with the Constitutional Court (MK) on Thursday, February 17, 2022. Secretary-General of the Constitutional Court and General Chairman of Executive Board (PP) of APHTN-HAN M. Guntur Hamzah, and Secretary-General of PP APHTN-HAN Bayu Dwi Anggono and several other members of the APHTN-HAN attended the event.

PEOPLE'S ECONOMY
(EXPLANATION OF ARTICLE 33 OF THE 1945 CONSTITUTION)

"Article 33 of the 1945 Constitution basically stipulates that the state must develop a cooperative and people-oriented economic life instead of an elitist economic life."
-Moh. Hatta

Oleh: **Ardiansyah Salim**
- *Head of Sub Division of Program and Evaluation of the Pancasila and Constitution Education Center*
- *Author of the book "Bureaucracy 4.0: Application of Artificial Intelligence."*

After the absence of one edition, due to certain reasons, the Classics Library comes back again by discussing a classic book published by Mutiara Jakarta publisher, 1977. The author was inspired by the story of a famous lawyer from Indonesia, Hotman Paris Hutapea, who was invited to a talk show Mata Najwa. On the talk show, Hotman Paris explained how he could win the billions of dollars case hearing against big or large companies from Singapore by relying solely on elementary school lessons, namely Article 33 of the 1945 Constitution. It is interesting to listen to this story because, as we know it that Article 33 is about the economy, which has a unique formulation, especially Article 33 paragraph (3) states that "The Earth, Water, and Natural Resources contained therein are controlled by the state and used for the greatest prosperity of the people." This article is very ideal in its formulation, but the practice says otherwise.

The book, which contains 66 pages, may be able to return our nation's "economic train" to the right track in increasingly difficult economic conditions, especially when our nation is faced with the third wave of the COVID-19 pandemic. The COVID-19 with the Omicron variant spreads very rapidly in addition to the constant problems of our people. For example, recently, people seem to have difficulty getting cooking oil which is now becoming scarce in the market. Together with Dr. Roeslan Abdulgani and others, Hatta conveyed their views on Article 33 in a seminar on the meaning of Article 33 of the 1945 Constitution. Ruslan Abdulgani

PENJABARAN PASAL 33 UUD 1945

Author : DR. MOHAMMAD HATTA
Publisher : Mutiara, Jakarta, 1977
Page : 66 Halaman

(statesman and politician, former Minister of Foreign Affairs of the Republic of Indonesia 1956-1957) also conveys his view on this matter. Many things can be discussed on this matter, but this time we limit the topic to Hatta's views and Ruslan Abdulgani's review of Hatta's views.

The seminar, which took place at the Ir. Soemantri Brojonegoro Student Center in Kuningan, Jakarta, from the October 6 to October 7, 1977, was attended by:

1. Pioneers of Independence,
2. Generation 45,
3. Young Generation/Students,
4. Scholar,
5. Entrepreneur,
6. Labor and others.

Generally, these people come from members of Golkar and political parties.

The elaboration of Article 33 from Hatta's perspective

According to Hatta, the implementation of the 1945 Constitution, particularly Article 33, should prioritize the principles of kinship and mutual cooperation, solidarity, and individuality, not individualism. What is the difference between individuality and individualism? Individuality refers to a person who maintains his personality and self-freedom, whereas individualism refers to a person who will always look for their own interest, selfishness. Hatta also further explained that the attitude of individuality is an attitude that is aware of self-esteem. If a person is aware of his self-esteem as a member of society, then that person will have strong determination to defend the interests of others. In this case, Hatta acknowledged the existence of private property ownership, so Article 33 is not an article that adheres to socialism and even communism. Article 33 recognizes the existence of private property, unlike the notions adopted in socialism or communism, where there is no recognition of private property ownership.

Furthermore, according to Hatta, and this is an interesting thing, in the implementation of national economic development, if foreign investment is required, the Government can determine strict requirements for their space of movement. Specifically for natural resources, preserving natural resources must be a priority that must be maintained. When we look at the development of the national economy, do you think it is according to what Hatta aspires to? Just ask yourself. Hatta also cited foreign aid/loans. Hatta expressed his view that in implementing foreign aid/loans, there must be no burden for future generations of Indonesia. What about the current conditions? We leave the opinion to our loyal Readers of Classics Library.

Moreover, Hatta said that Article 33, which is generally called Pancasila Economy, has 3 (three) sectors with 3 (three) actors:

a. Cooperative sector as a forum for the people's economy that must be continuously improved its role and position in the economic sector;
b. State business sector or known as state-owned enterprises;
c. The private business sector is the third actor in addition to the two sectors mentioned above.

For Hatta, cooperatives are a 'Sokoguru' (Hatta's term) for the Indonesian economy. Sokoguru means those who support and sustain the Indonesian economic system. Cooperatives are like pillars of support for the progress and welfare of the Indonesian nation. On the one hand, the Government must always promote and protect cooperatives. On the other hand, cooperatives build from the bottom (bottom-up), from small ones, which are closely related to the needs of the people in daily life, and then gradually increase upwards. On a top-down basis, the Government builds from above, building infrastructure such as producing electricity, supplying drinking water, and building roads for the economy to run smoothly. Later there will

be a harmonious symphony in the development of the national economy. Each plays its role in accordance with the 'instruments' it has, including the role of state-owned enterprises and the private sector.

Dr. Roeslan Abdulgani's Discussion on Hatta's Perspective

According to Prof.Dr. Roeslan Abdulgani, Hatta is one of the formulators of the 1945 Constitution, especially Article 33, which is the formulation and result of his thoughts which are solid, straightforward, profound, and simple. Article 33 was born because of Hatta, and therefore the only authentic source that can be questioned about the interpretation of Article 33 of the 1945 Constitution is from Hatta himself. Hatta's formulation contained in Article 33 results from Hatta's understanding of what was mandated by our Proclamation and Constitution, which is none other than a composition of the Indonesian economy. It is people's prosperity centric! It means that it prioritizes the achievement of people's prosperity, upon which it can be gradually built other aspects and sectors of people's lives. The fact that the people's prosperity–and in this term includes many people, and not only the elite minority at the top–is the basis and the main objective of the 1945 Constitution is also proven by paragraph (3) of Article 33. Therefore, it is evident that all exploration and exploitation of all our natural resources, including oil, gas, tin, coal, gold, nickel, and so on, as well as the wealth in the oceans and agricultural products, may be managed by the private sector if the state is "not fully empowered." However, all of them must be "used to the greatest benefit of the people.

According to Ruslan, Article 33 is not merely a "cooperative article" because it is actually more complex and intertwined with state and private factors. The proportions must be correct, and everything, whether the state, cooperatives, state-owned enterprises, and the private sector, must be as dedicated as possible to the prosperity of the people. Because if all economic activities must be cooperative and state-owned, especially with command and coercion, then the state will function as robots, while human dignity will disappear. The kleptocracy will push for democracy, and the lust of kleptos or stealing (read: corruption) will sneak into the bureaucratic state, stealing society's wealth. On the other hand, if all economic activities must be privatized, as is the case in capitalist countries, without government intervention and only surrender entirely to the market mechanism or commonly known as Adam Smith's invisible hand or Le Gendre's leissez-nous faire adopted by France, then according to Ruslan free-fight liberalism will arise, where the rich and the strong will exploit the poor and the weak; the smart will eat the fool. Economic and political cannibalism will become a habit. Therefore, the combination of idealism and realism, as reflected in Article 33 of the 1945 Constitution on the state's economic life ideals, is the most appropriate.

The fact is that carrying out the combination between idealism and realism is not easy, obviously. Many obstacles and challenges will always arise, both from the bureaucracy, the state's etatism, and the competition from private liberalism, which wants to suppress the interests and prosperity of the people. According to Ruslan Abdulgani, what is even more dangerous is that if the state as the power holder adheres to pragmatism only, a pragmatism without principles that only looks for momentary gains without looking at the long-term effects and consequences, etatism and liberalism can develop into parasites for people's prosperity. The hope now lives in the Constitutional Court. Thank God it was formed in the reformation era to always consistently keep the dignity of the contents of the 1945 Constitution, especially the nation's economy. Therefore, all Indonesian people can enjoy the wealth of this nation without exception. May the country always be present among the people, including overcoming the scarcity of cooking oil as it is now. Once again, the Indonesian economy is only for the greatest prosperity of the people! (AS).

THE INTRICACY OF GENERAL ELECTION

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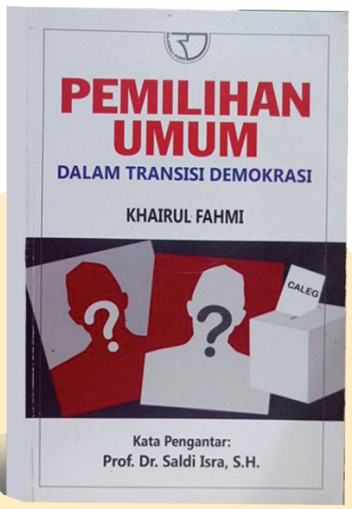

TITLE:

PEMILIHAN UMUM DALAM TRANSISI (GENERAL ELECTIONS IN THE TRANSITION OF DEMOCRACY)

AUTHOR: Khairul Fahmi

PAGE: 158

PUBLISHER: PT. RajaGrafindo Persada, 1st Edition, Jakarta

The book entitled **"General Elections in the Transition of Democracy"** describes the elections after the amendment of the 1945 constitution that has been carried out regularly every five years. However, as a means of implementing democracy, the system/the electoral administration subsystem is still dynamically looking for a balance. Indonesia is a country that uses a multiparty system in its party system. Multiparty systems tend to emphasize legislative power, so the role of the executive is weak.

What happened in the practice of state administration in Indonesia says otherwise. The presidential system, which should place the President as an executive who cannot be influenced by the actions of the legislative, has instead forced the President to form coalitions with other parties to gain support in the legislative. In the presidential system that is applied, the practice of making cabinets is, in fact, refers to the ways that are practiced in the parliamentary system. Therefore, it is not wrong to say that the practice in Indonesia is a deviation. The Government also cannot run effectively when the coalition in the presidential system only serves as an emergency coalition to increase support in the legislative.

This book also describes the simplification of political parties that can be done in various ways, including in constitutional or unconstitutional ways. In order for the process of simplifying political parties to run constitutionally, a method that is also constitutionally acceptable must be chosen. The electoral threshold (ET) and parliamentary threshold (PT) can meet the criteria. ET and PT will indirectly strengthen the presidential system that has been chosen. The parliamentary threshold (PT) does not limit anyone or any party to participate in the election. As long as the political parties meet the requirements, they can participate in the election. Hence, persons or political parties have the right to participate in the election, which is open widely. The disadvantage of the open opportunity to consistently participate in the election is the increased number of participants. A large number of participants in the election can complicate the simplification and structuring of electoral administration processes. There will be a large number of ballot paper which make it complicated. Moreover, the vote calculation process will also take a long time. Meanwhile, ET is intended to simplify the number of political parties participating in the general election. At the same time, the PT is intended to simplify the number of political parties that will get seats in The People's Representative Council (DPR).

By implementing ET and PT simultaneously, the number of political parties participating in elections can be limited naturally. The simplification of the number of political parties participating in the general election is actually intended to make it easier for people to make choices.

At the same time, it also allows people to choose more rationally without being confused by the complexity of the ballot paper containing many parties and candidates. The limited number of parties makes people not confused in making their choices. It also makes the decision-making process more effective in the legislative. Under such conditions, of course, ET and the PT will directly contribute to strengthening the presidential system as regulated in the 1945 Constitution.

For Indonesia, the choice of the electoral system for members of the legislature, particularly the People's Representative Council (DPR) and the Regional Legislative Council (DPRD) has been imposed on a pure, open, proportional. People's voices are placed above all other powers, including political parties. Political parties must submit to the people's sovereignty. Political parties are given the authority to screen and determine the citizens who will nominate themselves in elections. Still, the people will determine the results in accordance with the principle of one man, one vote, and one value. It means that the most trusted persons by the people will be elected as members of the legislature. Moreover, this choice can also help deconstruct the oligarchy of political parties, which has been one of the fundamental problems in structuring political parties. The consequence of using a purely open proportional system also forces policymakers and organizers in elections to give special attention to prospective candidates and legislative candidates, especially in making regulations. Every rule that will be made must pay attention to all aspects that come into contact with the individual rights of legislative candidates, not just political parties. In a sense, any rules or sanctions applied to political parties must not negate the rights of each candidate being promoted.

The author describes the General Elections Commission (KPU) regulations on the obligations of political parties to meet the requirements for 30% women representation in the list of proposed prospective candidates in each electoral district. Article 27 of KPU Regulation Number 7/2013 regulates one of the subject matters: a political party will be declared ineligible for submitting a list of prospective candidates in an electoral district if it does not meet the 30% women representation requirements. Consequently, all legislative candidates proposed in one electoral district will fail if the women's participation does not reach 30%.

The author also explains that if you want to build a solid and valuable electoral system for the long term, there is no other choice but to apply the existing system while still correcting its weaknesses consistently. As mentioned in this book, in assessing whether the election is of quality or not, at least three elements must be considered: input, process, and result. Furthermore, there are three important reasons why the Presidential Election Special Committee is not needed: (1) any problems that occur in the implementation of the election, whether related to fraud, the independence of the organizers, crime, or other injustices in the election, all of them have their own method of settlement; (2) establish a Special Committee for the purpose of investigating fraud allegations in holding the presidential election is like delegitimizing all institutions involved in implement and oversee the electoral process; (3) the presence of the Special Committee will actually interfere with the independence of election organizers as mandated by Article 22E paragraph (5) of the 1945 Constitution. The author further elaborates on the need for political maturity to accept any election results. Moreover, if the election results have been determined through a transparent process and supervised strictly by various state and community institutions.

The author also clearly describes the challenges of independence and professionalism of election organizers. The election organizers, including the General Elections Commission (KPU), the General Election Supervisory Body (Bawaslu), and the Honorary Council for General Election Organizers (DKPP), are an integral part of the electoral function. Thus, what is understood as the general election commission as contained in Article 22E paragraph (5) of the 1945 Constitution is the General Elections Commission (KPU), the General Election Supervisory Body (Bawaslu), and the Honorary Council for General Election Organizers (DKPP) as one unit. Those three institutions are placed as a single election organizer, but with different authorities from each other. Therefore, the chance of a clash is entirely possible, what's more, if one will oversee the other in the administration of all stages of the election.

Hopefully, a sequel to this book will be released soon. This book is highly recommended for teachers of constitutional law, social and political science, government science, students, legal practitioners, and the general public as a reference. Don't miss it.

Happy reading!

"There is no reason whatsoever to hinder self-development. It is not others who determine our style, but ourselves who determine the direction of our life journey."

People's Aspirations on the People's Consultative Assembly (MPR) Membership

LUTHFI WIDAGDO EDDYONO
Constitutional Court Researcher

Like the preparation of statutory regulation, let alone changes to the constitution, it is appropriate to carry out the process of absorbing the people's aspirations. This was also done in the amendments to the 1945 Constitution, which was revealed in the *Comprehensive Manuscript on Amendments to the 1945 Constitution of the Republic of Indonesia, Background, Process, and Discussion Results from 1999-2002, Book V General Elections (Jakarta: Secretariat General and the Registrar of the Constitutional Court).*

The Comprehensive Manuscript explained that on March 12, 2002, the 12th PAH I BP MPR Meeting was held with the agenda of listening to reports on absorbing people's aspirations in several regions. Slamet Effendy Yusuf, as the Deputy Chairperson of PAH I, chaired the meeting.

One that reports the results is Abdul Aziz Imran Pattisahusiwa from F-PPP, who conveyed the results of the absorption of the people's aspirations which was organized in collaboration with the Indonesian Education University (UPI) Bandung. Specifically related to MPR material, as follows:

"From the meeting at the Indonesian Education University in Bandung on March 6, 2002, in outline, several inputs are obtained as follows: a). People's Consultative Assembly (MPR) Membership, concerning the membership of the MPR, most participants proposed that the MPR membership is composed of the members of the People's Representative Council (DPR) and the Regional Representative Council (DPD). At the same time, the group delegation should conduct a study using the historical interpretation method. Specifically, the history of the Constitution."

Further, Soedijarto from F-UG also reported the results of the absorption of the people's aspirations from Banjarmasin related to the MPR, as follows.

"There are those who agree with the MPR membership structure, composed of the members of the People's Representative Council (DPR) and the Regional Representative Council (DPD). However, like in other places, there are also those who agree with the inclusion of the group delegation. It's just that in the case of the DPD, many suggest that non-partisans will fill it so that there is a balance of power in the MPR itself, namely the DPR, who is a party member, and the DPD, who is not. That's how they want it. In addition, there are those who want it to remain as it is now, but without DPD."

Furthermore, Soetjipno from F-PDIP conveyed the results of the absorption of people's aspirations at Udayana University, Denpasar, related to the structure of the MPR as follows.

"Regarding the structure and membership of the MPR, several opinions arise: first, in general, elements of community groups in the areas of Bali, NTB, and NTT want the membership of the Assembly composition based on Alternative 1. However, another opinion wants the composition of the membership of the Assembly based on Alternative 2."

Then the results of the absorption of the people's aspirations from Central Java were conveyed by M. Hatta Mustafa from the F-UD as follows:

"Concerning the MPR membership, in general, professional community groups in Central Java, especially Semarang and DIY, wants all MPR members to be elected through general elections. However, some people want group delegation and TNI/Polri to be included in the MPR membership and be part of MPR membership."

Rully Chairul Azwar from F-PG conveyed the results of the absorption of the people's aspirations in South Sumatra concerning the MPR are as follows:

"In general, all community groups in the southern part of Sumatra want the MPR membership are all elected through general elections. This will support and reflect Indonesia's democratic process, he said so. However, some argue that the structure and membership of the MPR should not be further regulated by law, and instead regulated by the constitution itself or at least by the Assembly."

Retno Triani Johan from F-UD delivered the results of absorption of the people's aspirations in East Java concerning the MPR membership are as follows:

"...on the issue of the composition or structure of the MPR membership, there are two types of proposals. First, there is no need for a group delegation. Some noted that the group delegation was included in the transitional provisions, and there must be a balance of membership between the DPR and DPD. Second, the group delegation is included in the MPR with a note that there is a need for balance and justice in the composition of the group delegation themselves."

Ali Hardi Kiaidemak from F-PPP also shared the results of absorption of the people's aspirations related to the MPR in South Sulawesi are as follows: *"...The results of the absorption of people's aspirations carried out at Hasanuddin University are: first, it is related to the MPR membership structure. In general, the participants in the discussion support the MPR memberships composed of the members of the People's Representative Council (DPR) and the Regional Representative Council (DPD)."*

In the end, the MPR arrangement in the 1945 Constitution reads:

Article 2

The People's Consultative Assembly (MPR) consists of members of the People's Representative Council (DPR) and members of the Regional Representative Council (DPD), who are chosen through general elections and further regulated by law.

(1) The People's Consultative Assembly (MPR) shall convene at least once every five years in the capital of the state.
(2) All decisions of the People's Consultative Assembly (MPR) shall be taken by majority vote.

Article 3

(1) The MPR has the authority to amend and ordain the Constitution.
(2) The MPR installs the President and/or the Vice President.

The MPR may only dismiss the President and/or Vice President during their term of office in accordance with the Constitution.

In the closing section of the Comprehensive Manuscript, it is also explained that the election arrangements are indeed also related to the chapter that regulates the MPR (Section II), which was ratified in the Fourth Amendment to the 1945 Constitution of 2002 by voting. Article 2 paragraph (1) states: "The MPR consists of the members of the DPR and the members of the DPD who are chosen through general elections and further regulated by law." Thus, according to the Comprehensive Manuscript, no more members of the MPR were appointed. There are no longer elements of the military and police (TNI/Polri) and group delegation in the MPR. Meanwhile, Regional Delegations have increased their role in the DPD institution and are given several different powers, which are not the same as the authority given to the DPR (Article 22D). This is in line with the majority of people's aspirations collected by the MPR.

TAP MPR is still valid

LUTHFI WIDAGDO EDDYONO
Constitutional Court Researcher

The amendments to the 1945 Constitution, which were carried out from 1999 to 2002, clearly reduced the authority of the MPR. MPR is no longer the highest state institution. Currently, MPR is equal to other state institutions. This has implications for the existence of an MPR product, namely the existing MPR Decree. Moreover, if you pay attention, many of the articles of the new 1945 Constitution are derived from previous MPR Decrees, so their existence is no longer relevant.

Therefore, the MPR itself then issued a decree TAP MPR No. I/MPR/2003 on Judicial Review Matter and Legal Status of the Tap MPRS Decree and Tap MPR Decree from 1960-2002. Formally, the section on Considering the Decree provides the background of the Tap MPR.

The Consideration section reads:

a. the 1945 Constitution of the Republic of Indonesia is the main foundation in the administration of state life for the Nation and the Unitary State of the Republic of Indonesia; b. the First Amendment, Second Amendment, Third Amendment, and The Fourth Amendment to the 1945 Constitutions of the Republic of Indonesia have resulted in changes in the state institutional structure in the Republic of Indonesia.

In point c, it is explained that changes in the state institutional structure result in changes in the position, functions, duties, and authorities of existing state and government institutions. This change affects the rules that apply according to the 1945 Constitution of the Republic of Indonesia in 2003 and resulted in the need for a Judicial Review Matter and the Legal Status of the Tap MPRS Decree and Tap MPR Decree (point d).

Furthermore, in point e, it is stated that the results of a review of the content and legal status of the Tap MPRS Decree and Tap MPR Decree will be made by MPR RI at the Annual Session of the MPR in 2003. Therefore, in point f, the MPR states that it is necessary to stipulate an MPR Decree on the review of the contents and the legal status of the decisions of the MPRS and the MPR from 1960 to 2002.

If you look at the process of making this MPR Decree, several meetings and decisions have been made, namely the MPR Decree Number I/MPR/2003 on the Schedule of the Annual Session of the MPR in 2003 as amended by MPR Decree Number 3/MPR/2003 on Changes in the Schedule of the Annual Session of the MPR in 2003; Deliberation in the Annual Session of the People's Consultative Assembly of the Republic of Indonesia on August 1 - August 7, 2003, which discussed the Draft Decree of the People's Consultative Assembly of the Republic of Indonesia on the review of the contents and the legal status of the decisions of the MPRS and the MPR from 1960 to 2002; Decision of the 6th Plenary Meeting (continued) on August 7, 2003, Annual Session of the People's Consultative Assembly of the Republic of Indonesia in 2003.

Finally, on August 7, 2003, the MPR Decree was decided by the Chairman of the MPR at that time, namely Prof. Dr. H.M. General Rais. The MPR Decree consists of seven articles. The first article contains the decisions of the MPRS and the MPR, which were revoked and declared invalid. These are:

1. Decree of the MPRS of the Republic of Indonesia Number X/MPRS/1966 on the position of all State Institutions at the Central and Regional Levels in the Positions and Functions as regulated in the 1945 Constitution.
2. Decree of the MPR (People's Consultative Assembly) of the Republic of Indonesia No. VI/MPR/1973 on the Position and Relation of work procedures among the Highest State

Agencies and/or inter High State Agencies.

3. Decree of the MPR of the Republic of Indonesia No. VII/MPR/1973 on the Absence of the President and/or Vice President of the Republic of Indonesia.
4. Decree of the MPR of the Republic of Indonesia Number III/MPR/1978 on the Position and Relation of work procedures among the Highest State Institutions and/or inter High State Institutions.
5. Decree of the MPR of the Republic of Indonesia Number III/MPR/1988 on General Elections.
6. Decree of the MPR of the Republic of Indonesia Number XIIIIMPR/1998 on Limitation of the Term of Office of the President and Vice President of the Republic of Indonesia.
7. Decree of the MPR of the Republic of Indonesia Number XIV/MPR/1998 on the Amendments and Supplements to the Decree of the MPR Number III/MPR/1988 on General Elections.
8. Decree of the MPR of the Republic of Indonesia Number XVII/MPR/1998 on Human Rights.

Article 2 contains the decisions of the MPRS and the MPR that shall remain valid with their respective provisions as follows:

1. Decree of the MPRS of the Republic of Indonesia Number XXV/MPRS/I966 on the Dissolution of the Indonesian Communist Party (PKI) and Prohibitions of Marxist, Leninist, and Communist Teachings shall remain valid with the provisions that all the decisions of the MPRS of the Republic of Indonesia Number XXV/MPRS/1966 will be implemented with justice and abide by the law, democratic principles, and human rights.
2. Decree of the MPR of the Republic of Indonesia Number XVI/MPR/1998 on the Political Economy in terms of Economic Democracy shall remain valid with the provisions that the Government is obliged to encourage political and economic alignments that provide more opportunities for economic support and development, small and medium enterprises, and cooperatives as economic pillars in generating the implementation of national development within the framework of economic democracy in accordance with the essence of Article 33 of the 1945 Constitution of the Republic of Indonesia.
3. Decree of the MPR of the Republic of Indonesia Number V/MPR/1999 on the vote for self-determination in East Timor shall remain valid until Article 5 and Article 6 of the Decree of the MPR of the Republic of Indonesia Number V/MPR/1999 come into effect.

Furthermore, Article 3 elaborates that the Decree of the MPR of the Republic of Indonesia shall remain valid until the formation of the Government resulting from the 2004 general election come into effect. There are eight MPR Decrees similar to this. Article 4 stipulates the decisions of the MPRS and the MPR that shall remain valid until a law is enacted. There are 11 MPR Decrees similar to this.

Article 5 elaborates on the Decree of the MPR of the Republic of Indonesia on the Rules of Procedure of the People's Consultative Assembly of the Republic of Indonesia that shall remain valid until the stipulation of the new Rules of Procedure by the People's Consultative Assembly of the Republic of Indonesia as a result of the 2004 general election. There is five MPR decree that belongs to that category.

Furthermore, Article 6 describes 104 decisions of the MPRS and the MPR of the Republic of Indonesia which do not require further legal action, either because it is *einmalig* (final), has been revoked, or has been completed.

For this reason, it is interesting to examine the views of Prof. Maria Farida Indrati. She gives her opinion mainly related to the basic rules of the state as contained in the body of the 1945 Constitution, the MPR decree (Tap MPR), and constitutional conventions. According to her, as reported by *Hukumonline.com*, the basic rules of the state are the basis for the formation of the law (*Formel Gesetz*) and other lower regulations. However, with the enactment of the 1945 Constitution due to the amendments, the MPR can no longer issue an MPR Decree, which is regulatory (*regeling*). This includes the outlines of the state policy, which are no longer under the authority of the MPR.

MARRIAGEABLE AGE LIMIT AND CRIMINAL COMPLAINTS BY MINORS

DR. WILMA SILALAHI, S.H., M.H.
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Every citizen has the right to get married, which the state guarantees to form a familial bond and continue offspring through legal marriage. Marriage is a bond between a man and a woman as husband and wife with the aim of forming a happy and long-lasting family (household) based on the belief in the One and Only God. The marriage is legal if the man and woman have the minimum age of 19 years, as regulated in the Marriage Law. Furthermore, the state guarantees children's rights to survive, grow, and develop and the right to protection from violence and discrimination as mandated in the 1945 Constitution.

Child marriage can have a negative impact on children's growth and development. It can also lead to the non-fulfillment of children's basic rights, such as the right to protection from violence and discrimination, children's civil rights, right to health, right to education, and children's social rights. Thus, it is important to regulate the marriageable age limit for children, among others: in order to create a quality family; avoid divorce; avoid domestic violence; maintain health; mentally prepare the prospective bride and groom; avoid disrupting education; prevent population growth; prepare the economy; avoid the shackles of children's rights; prevent children's loss of hopes to live, grow, develop, and achieve; prevent the increase in maternal and infant mortality and reproductive health concerns; and other reasons, so the Government feels the need to prevent the underage marriage. In addition, the need for a marriageable age limit to be regulated is because, in essence, it is an essential element in realizing the goal of marriage. Law Number 16 of 2019 has raised the minimum age of marriage to 19 years, for both sexes. This is done in the context of elevating the dignity of women, restoring rights in accordance with the constitution, and preventing child marriage that has the potential for child exploitation.

Furthermore, the state has a responsibility to ensure the welfare of every citizen, including the protection of children's rights, which are human rights that every child has. Child Protection, as regulated in Law 35/2014, is all activities to guarantee and protect children and their rights to live, grow, develop, and participate optimally in accordance with human dignity, and receive protection from violence and discrimination.

Further, immoral criminal acts against underage children still happen. The immoral criminal acts experienced by children tend to be covered up by both the child and the parents. This is why a lot of immoral criminal acts are not resolved. In addition, the Criminal Code stipulates that Prosecution is only carried out on the complaint of the person against whom the crime was committed. Most children who experienced immoral criminal acts experienced trauma, so they never tell anyone because they feel ashamed and disgraced to their families.

As it is known, children's rights are part of human rights that must be guaranteed, protected, and fulfilled by parents, family, community, State, Government, and Local Governments. For this reason, children's rights protection must be strictly regulated. Therefore, related to the problems above, it is one of the reasons the Petitioners submitted a judicial review to the Constitutional Court as stated in the Decision of Constitutional Court Number 21/ PUU XIX/2021, dated December 15, 2021.

The Constitutional Court Decision Number 21/ PUU-XIX/2021

In the Decision of the Constitutional Court Number 21/ PUU-XIX/2021, dated December 15, 2021, the Petitioners are Leonardo Siahaan and Fransiscus Arian Sinagapara, students of the Indonesian Christian University, as individual Indonesian citizens who feel their constitutional rights have been harmed in upholding and abiding by the law that is positive in the Criminal Code. They argued that Article 288 and Article 293 of the Criminal Code have multiple interpretations and do not provide clear legal certainty.

According to the Petitioners, there are differences concerning the marriageable age limit. Article 293 of the Criminal Code determines the age allowed to get married for men aged 18 years and girls 15 years. Meanwhile, according to Article 7 paragraph (1) of Law Number 16 of 2019, the age limit for marriage for both men and women is 19 years. Moreover, Article 288 of the Criminal Code provides a clear explanation of the age referred to as "not yet marriageable," and this is different from the provisions in Article 287 of the Criminal Code, which include the age of a minor, namely "15 years of age" so that it is feared that it will cause a debate on the phrase "not yet marriageable" as referred to in Article 288 of the Criminal Code. Furthermore, according to the Petitioners, Article 293 paragraph (2) of the Criminal Code, which regulates the obscene acts, should not be categorized as an ordinary complaint offense because as a form of violation of decency involving the general public, and this will certainly provide an explanation that the category of fornication is a category of acts violation of decency as an ordinary complaint offense that is processed without the consent of the harmed (victim). So, even though the victims have withdrawn their report to the authorities, the investigators are still obliged to process the case.

Furthermore, the Petitioners basically request that the Court declares Article 288 paragraph (1) of the Criminal Code, which reads "not yet marriageable," and Article 293 paragraph (1) of The Criminal Code insofar as the phrase "minors" is contrary to the 1945 Constitution and has no binding legal force as long as it is not interpreted as "19 years of age limit." Likewise, in Article 293 paragraph (2) of the Criminal Code, the Petitioners request that the a quo norm be interpreted conditionally insofar as the phrase "A prosecution shall be instituted only upon complaint of the person against whom the crime has been committed" (Absolute complaint offenses) is changed to a regular offense.

In its legal considerations, the Court considered that, concerning the issue of constitutionality in question by the Petitioners, in essence, it is related to the unconstitutionality of Article 288 paragraph (1) and Article 293 paragraph (1) and paragraph (2) of the Criminal Code. The norms of Article 288 of the Criminal Code reads:

(1) Any person who in marriage has carnal knowledge of a woman of whom he knows, or reasonable should presume that she is not yet marriageable, shall, if the act results in bodily harm, be punished by a maximum imprisonment of four years.
(2) If the act results in serious physical injury, maximum imprisonment of eight years shall be imposed.
(3) If the act results in death, a maximum imprisonment of twelve years shall be imposed.

While the norm of Article 293 of the Criminal Code reads:

Any person who by gifts or promises of money or goods, abuse of dominance resulting from factual relationship or deceit, intentionally moves a minor of irreproachable conduct, whose minority he knows or reasonably should presume, to commit any obscene act with him or to tolerate

such act, shall be punished by a maximum imprisonment of five years.

(1) A prosecution shall be instituted only upon complaint of the person against whom the crime has been committed.

(2) The term referred to in Article 74 shall, for this complaint respectively, amount to nine and twelve months.

According to the Court, concerning the a quo Petitioners' petition, it is essential to emphasize the "age limits" as the minimum age for marriage. The Court has confirmed through the Decision of the Constitutional Court Number 22/PUU-XV/2017, dated December 13, 2018, Paragraph **[3.17],** states:

"... Article 7 paragraph (1) of Law 1/1974 along with the phrase "16 (sixteen) years old" is contrary to the 1945 Constitution and does not have binding legal force as long as it is not read "19 (nineteen) years old" as requested by the Petitioners in their petitum.

Whereas, as previously stated, the marriageable age limit is a legal policy for legislators. Suppose the Court decides on the minimum age for marriage. In that case, it will actually close the door for lawmakers in the future to consider more flexibly the minimum age limit for marriage in accordance with legal developments and community developments. Therefore, the Court has given no later than 3 (three) years to legislators to immediately make changes to legal policies related to the minimum age for marriage, particularly as stipulated in Article 7 paragraph (1) of Law 1/1974. Prior to the amendment, the provisions of Article 7 paragraph (1) of Law 1/1974 were still in effect.

That if within that time limit, the legislators still have not made any changes to the minimum age limit for marriage that is currently in effect, in order to provide legal certainty and eliminate discrimination caused by these provisions, then the minimum age limit for marriage as regulated in Article 7 paragraph (1) of Law 1/1974 is adjusted with the children's age as regulated in the Child Protection Law and applies equally to men and women."

Based on the elaboration from the legal considerations above concerning the age limit, including in this case the actual marriage age limit, the Court has confirmed the minimum age limit for marriage, which then Law Number 16 of 2019 has stated that the age limit is 19 (nineteen) years. Thus, the phrase "not yet marriageable" as contained in the norms of Article 288 paragraph (1) of the Criminal Code and the phrase "minor" in Article 293 paragraph (1) of the Criminal Code have been answered with the change in the said norm. However, the changes related to the determination of the age limit are not the Court to decide. Therefore, through the a quo decision, the Court affirms that the legislators to adjust the age limit in the phrase "not yet marriageable" in Article 288 paragraph (1) of the Criminal Code and the phrase "minor" in Article 293 paragraph (1) of the Criminal Code on amendments to the Criminal Code in accordance with the spirit of the Constitutional Court Decision Number 22/PUU XV/2017.

According to the Court, based on the elucidation of the legal considerations above, in their petitum, the Petitioners requested that the Court declare the unconstitutionality of Article 288 paragraph (1) of the Criminal Code and 293 paragraph (1) of the Criminal Code along with the phrases "not yet marriageable" and "a minor" are not legally binding. Furthermore, in their petitum, the Petitioners also requested that the Court declare the unconstitutionality of Article 293 paragraph (2) of the Criminal Code conditionally constitutional, which reads: "A prosecution shall be instituted only upon complaint of the person against whom the crime has been committed" (absolute complaint offense) is changed to a regular offense. In its legal considerations, the Court asserted that victims of obscene

criminal acts could not only be adults but also minors. Therefore, reports of such acts can be filed by the community or the victim.

Doctrinally, reports of criminal incidents can be done by the community, especially with regard to regular offenses, which do not require that the complaints be made by the victims (regular offense) [vide Article 108 paragraph (1) of the Criminal Procedure Code].

However, some require that the reports or complaints be made specifically by the victims so that they can be followed up on in the investigation pursuant to Article 293 paragraph (2) of the Criminal Code. With regard to these requirements, the Court must declare age or maturity a factor in whether a report exists as a formal requirement for the follow-up to a criminal incident. In this case, within the limits of valid reasoning, if the victim of a crime is a minor, the minor in question has many limitations in reporting the criminal incident they experienced. Thus, it is difficult for the law enforcement process, which only relies on investigations of victim reports, in casu whose victims are minors who have many limitations in terms of knowledge, psychology, etc. Crimes against minors will significantly impact their future. However, regarding reports or complaints as required in Article 293 paragraph (2) of the Criminal Code, it often creates a dilemma because not all victims and their families want to file a complaint, fearing that it would make the incident subject to the public scrutiny. Crimes as referred to in Article 293 paragraph (2) of the Criminal Code, are serious crimes that cannot be justified from the perspective of religion, decency, and public order. Therefore, to balance the protection for the victims and law enforcement over the crime, the absence of reports or complaints by victims cannot be used as an excuse for not disclosing the crime. Thus, the Court believes that to overcome the limitations of minor victims, in addition to reports or complaints filed by the minors in question, reports or complaints of criminal incidents can also be filed by their parent, guardian, or proxy. Based on those considerations, the Court believed the requirements for reports or complaints concerning crimes against minors in Article 293 paragraph (2) of the Criminal Code must be revised to accommodate legal needs in society. As such, the phrase "A prosecution shall be instituted only upon complaint of the person against whom the crime has been committed," as stated in Article 293 paragraph (2) of the Criminal Code, was declared unconstitutional and not legally binding insofar not be interpreted "complaint can be made not only by the victim, but also by their parent, guardian, or proxy." Thus, in the petitum of the Petitioners relating to the norms of Article 293 paragraph (2) of the Criminal Code, a quo that must be interpreted from "absolute complaint offense" to "regular offense" is no longer relevant for consideration because complaint or report can be made not only by the victim, but also by their parent, guardian, or proxy. Therefore, the absolute complaint offense contained in Article 293 paragraph (2) of the Criminal Code automatically becomes a relative complaint offense. The petitum of the Petitioners on Article 293 paragraph (2) of the Criminal Code has created legal uncertainty as stated in Article 28D paragraph (1) of the 1945 Constitution and has eliminated security protection, including protection of self, family, honor, and dignity, as stated in Article 28G paragraph (1) of the 1945 Constitution is reasonable according to the law in some part.

"Everyone's unique. Be yourself with confidence, bravery, agility, intelligence, wisdom, (then) color the world…".

Healing Solutions for Russia and Ukraine?

Immanuel B.B. Hutasoit
Head of Subdivision for Foreign Cooperation

Heal the world, Make it a better place
For you and for me, and the entire human race
There are people dying, if you care enough for the living
Make a better place for you and for me.
(Heal the world, a song by Michael Jackson, released in 1992)

Healing is a term that has recently become widespread among Indonesian youth. For example, if someone gets stressed, they crave a day off for healing. When work is getting more stressful, or when someone has different opinions from superiors or co-workers, they immediately feel the need for healing. Healing is usually done by traveling. It's the style and characteristics of today's generation.

When I hear the word healing, it brings me back to my memory lane in my generation. I remember a song called Heal the world sung by Michael Jackson, a legendary musician, which was released in 1992. In his song, he urges all people in the world to give space and time for healing. We (humanity) need to make this world a better place for all.

Indeed, 18 years later, in 2020, the world is healing. I still remember how it was when this pandemic broke out. Some experts and observers argue that the Earth is resting and breathing for a moment. People stay at home, so air pollution is reduced, the use of electricity is reduced, the waste is reduced, and so on that makes the earth seem to enter the pit stop of its rotation and revolution journey.

However, it is fascinating to look at the world conditions that have occurred recently, especially in the context of the heat relations between Russia and Ukraine amid a pandemic that has not yet ended.

Indonesia, as a big country that in its constitution mandated to participate in maintaining world order and realizing lasting peace, through the President of the Republic, Indonesia has issued a call to stop the war between Russia and Ukraine.

Of course, this writing will not deeply explore Russia and Ukraine relations and the background of the feud between them. The interesting thing is to cover this topic from another perspective because both countries (Russia and Ukraine) have a Constitutional Court (MK), and the two have a good relationship directly or indirectly with the Constitutional Court of the Republic of Indonesia (MKRI).

Fellow WCCJ Members

The Constitutional Court of the Republic of Indonesia (MKRI), the Constitutional Court of the Russian Federation, and the Constitutional Court of Ukraine are in the same "house," namely, The World Conference on Constitutional Justice (WCCJ). In particular, the Constitutional Court of the Republic of Indonesia (MKRI) does have a more personal relationship with the Constitutional Court of the Russian Federation. This is because the two constitutional courts are also members of the Association of Asian Constitutional Courts. However, this is not the case with the Constitutional Court of Ukraine. The Constitutional Court of the Republic of Indonesia (MKRI) and the Constitutional Court of Ukraine do not yet have a special relationship, either in the form of direct correspondence or fieldwork to Kyiv. Among the Eastern Europe countries, the Constitutional Court of the Republic of Indonesia (MKRI) has close relations with Ukraine's neighboring countries, such as Moldova or Poland, but not with Ukraine.

Even though they don't have a close relationship, the MKRI has been in the same forum several times with the Constitutional Court of Ukraine. The latest forum was at the international symposium organized by the Constitutional Council of Kazakhstan on August 27, 2021, with the theme "Internet Age: Law Supremacy, Human Values, and Freedom of the State." In the forum Chief Justice of the Constitutional Court of the Republic of Indonesia, Anwar Usman, and the Chief Justice of the Constitutional Court of Ukraine, Galina Yurovskaya, were appointed as speakers. However, it was unfortunate because the symposium was held online. Thus, the two of them do not have the opportunity to have a small talk at the end of the session, as is usually the case in other forums held offline.

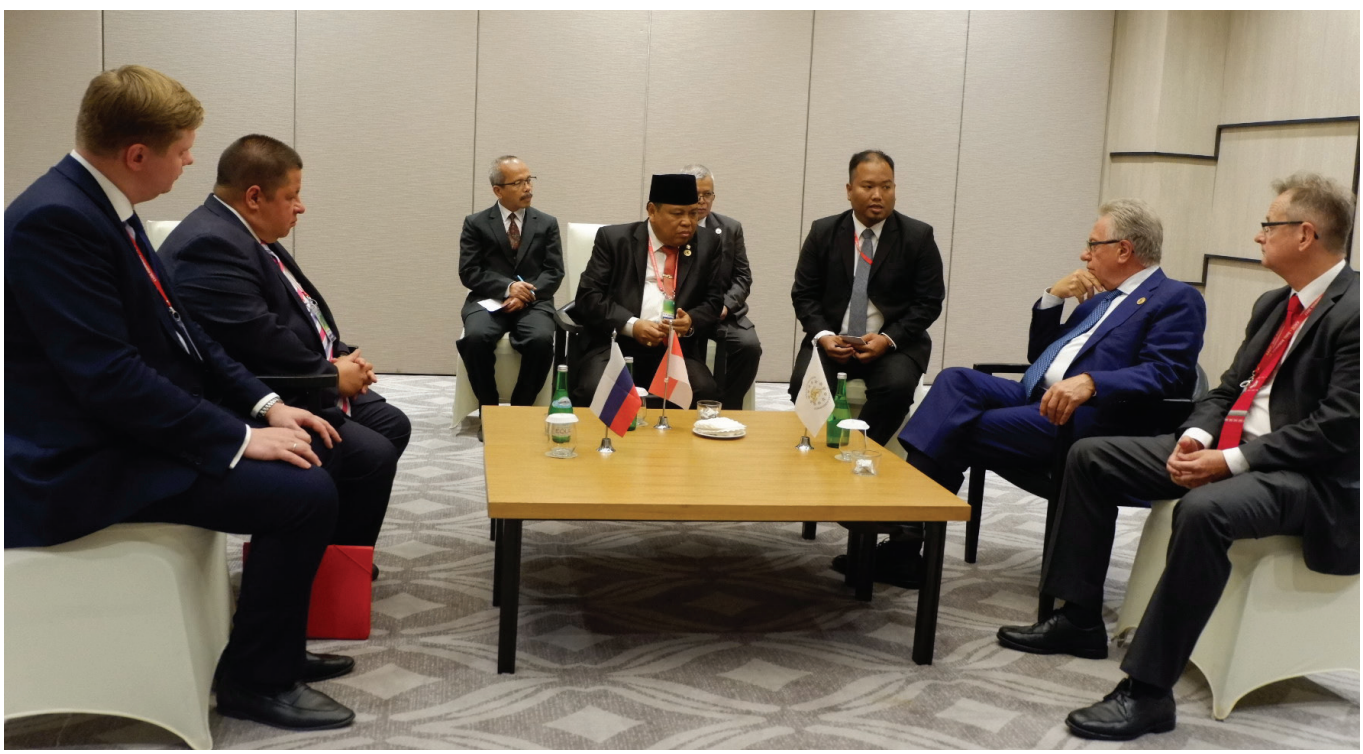
In a meeting with the Indonesian people in Krung Thep, Thailand, in 2014, the Secretary-General of the Republic of Indonesia, M. Guntur Hamzah, explained the development of democracy in Indonesia and the role of the Constitutional Court in Constitutional Democracy which also cites and exemplifies what is happening in Ukraine, mainly about proposing constitutional justice by the President. (Source: https://www.mkri.id/index.php?page=web.News&id=10266)

This indicates that, in fact, for a long time, the MKRI has also learned about the Constitutional Court of Ukraine, although personally, they do not have a close relationship.

Fellow at the Asian Constitutional Court Association

The Constitutional Court of Ukraine and the Constitutional Court of the Russian Federation are different. The MKRI and the Constitutional Court of the Russian Federation are close colleagues. It was noted that apart from WCCJ, the Constitutional Court of the Russian Federation is also a member of the Asian Constitutional Court Association (AACC) along with Indonesia because most of Russia's mainland is in the Asian region.

The MKRI and the Constitutional Court of the Russian Federation are not only in the same "house" because the two Constitutional Courts have also visited each other several times. The Constitutional Court of the Russian Federation delegation regularly



attends international activities organized by the MKRI, either online in 2019 or at the JOIC conference, which was held online in September last year. On the other hand, the MKRI delegation also continuously attends the invitation of the

Constitutional Court of the Russian Federation, especially at the St. Petersburg Legal Forum, which is held every year. Chief Justice of the Constitutional Court of the Republic of Indonesia also specifically had a bilateral working visit in 2016. At that time, the two Constitutional Courts agreed to cooperate in several sectors.

In the context of AACC, MKRI also often accommodates matters of concern of the Constitutional Court of the Russian Federation to the association. In 2016, the Constitutional Court of the Russian Federation fully supported Jakarta as the permanent secretariat of the association, where at the same time, MKRI also supports the Russian language being used as one of the official correspondence languages in the association, considering the large number of AACC members originating from the former Soviet Union. With these agreements, the amendments to the AACC statutes can run relatively smoothly and cannot be separated from the role of the good work relationship between the MKRI and the Constitutional Court of the Russian Federation.

Most recently, in the last two years, the Constitutional Court of the Russian Federation has also agreed on several MKRI initiatives, including the preparation of the Joint Statement on COVID-19 by all members of AACC declared in 2020, as well as full support for the submission of the MKRI as the host of the WCCJ which represents the Asia continent.

Peacemaker for the Constitutional Court of the Russian Federation

The close relationship between the Constitutional Court of the Republic of Indonesia (MKRI) and the Constitutional Court of the Russian Federation also marked an important journey at the 4th WCCJ congress, which was held in 2017. At that time, the Constitutional Court of the Russian Federation experienced hostility from the host of the congress, the Constitutional Court of Lithuania. At the congress event, the Constitutional Court of Lithuania does not guarantee to invite the Constitutional Court of the Russian Federation delegation to set foot in Lithuania to attend the congress. It is a form of protest from the Lithuanian Government over what the Russian Government did in Crimea. Therefore, the Lithuanian government "sanctioned" the Russian Government by forbidding them to enter Lithuanian territory. For this reason, the Venice Commission, as the WCCJ secretariat, has sent a letter to the Constitutional Court of Lithuania to include the Russian delegation at the WCCJ congress. However, they got no response.

One month before the congress, in August 2017, the Constitutional Court of the Russian Federation delegation attended an international symposium organized by the Constitutional Court of the Republic of Indonesia (MKRI) in Solo. Likewise, the President and Secretary-General of the WCCJ were also present.

At the Symposium, the Constitutional Court of the Russian Federation delegation separately complained to the Constitutional Court of the Republic of Indonesia as President of the AACC about the difficulty of their delegation to attend the WCCJ congress in Lithuania from September 11-September 14, 2017. Likewise, the President and Secretary-General of the WCCJ conveyed the same thing to the Constitutional Court of the Republic of Indonesia and hoped there would be a good action or encouragement to resolve this problem.

Thus, the Constitutional Court of the Republic of Indonesia initiated a trilateral meeting between the Constitutional Court of the Republic of Indonesia, the Constitutional Court of the Russian Federation, and the Venice Commission. At the meeting, the Constitutional Court of the Republic of Indonesia stated that they would represent AACC to make a statement in a closed letter to ensure that all AACC members have the right and the same obligation to attend the WCCJ congress. The letter was prepared and submitted through the WCCJ Secretariat, Venice Commission to be submitted to the Constitutional Court of Lithuania.

Constitutional Justice and Peace

Let's go back to the song lyrics composed by Michael Jackson: *There are people dying, if you care enough for the living, make a better place for you and for me*. The lyrics of the song seem to remind the Constitutional Courts around the world to participate in ensuring the enforcement of the basic rights and constitutional rights of every citizen as stated in their respective constitutions. Therefore, the momentum of the 5th WCCJ congress, which will be held in Bali on 4-7 October 2022, should answer the challenge of realizing peace among all WCCJ members. It is interesting for us to wait to what extent the theme of "Constitutional Justice and Peace" can significantly impact realizing world peace.

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