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E-MAGAZINE

KONSTITUSI

mkri.id

19 YEARS OF CONSTITUTIONAL COURT'S DYNAMIC


Mari Belajar
Sejarah....!!!!
PUSAT
SEJARAH
KONSTITUSI
Lantai 5 dan 6 Gedung Mahkamah Konstitusi
Jl. Medan Merdeka Barat No. 6 Jakarta Pusat

Editor's Foreword

Various important and interesting events occurred in August 2022. These are recorded in the August 2022 Edition of the Constitution Magazine. First, we present the travel notes of the Constitutional Court of the Republic of Indonesia (MKRI) which was born on August 13, 2003. There are many events, both in court and the non-hearing of the Constitutional Court.

In addition, we present the MKRI's 19th Birthday greetings from the heads of ministries/agencies which are increasingly coloring the dynamics of the MKRI's anniversary. Furthermore, there is coverage of MKRI in the eyes of the general public. We interviewed various groups of people, for example, street sweepers, online motorcycle taxi drivers, clerics/Ulama, and community leaders.

No less interesting, there is a photo gallery of monumental MKRI photos from 2003-2022. This has become a special feature and spoiled the readers of Konstitusi Magazine, at least the photos presented can be important, historical, and meaningful moments, especially for the parties involved in the events recorded through photographs.

For the rest, as usual, we present regular and unique rubrics in Konstitusi Magazine. There are Editorials, Courtrooms, Actions, Talks, Summary of Decisions, Libraries, Classics Libraries, and others. This is a brief editorial introduction. In short, we wish you a pleasant reading!

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CONSTITUTIONAL COURT IS 19 YEARS OLD

At 19 years old, in terms of the facade of the building, the Constitutional Court (MK) has not had any significant changes. However, in its mission to increase the constitutional awareness of citizens and state administrators, perhaps the Constitutional Court can be considered to be successful.

4 DOCUMENTATION OF KONSTITUSI

The Role of the State in the Development of Social

NINETEEN

Tahun ini, 13 Agustus 2022, Mahkamah Konstitusi (MK) memperingati ulang tahun ke-19. Tepat di hari ini, MK ditahbiskan resmi berdiri. Ini berarti, sebagai amanat dan produk reformasi konstitusi, MK telah berkiprah selama 19 tahun lamanya. Bukan hanya mewarnai dan melengkapi, melainkan juga turut menentukan dinamika dan kemajuan peradaban hukum, demokrasi, dan ketatanegaraan negara sebagaimana yang direngkuh dan dinikmati sekarang ini.

Seperti adat kebiasaan, ulang tahun merupakan momen tidak terelakkan, tetapi selalu istimewa dan selalu memiliki makna tersendiri, bagi siapapun, tidak terkecuali bagi Mahkamah Konstitusi. Momen ulang tahun selalu mampu menghadirkan kembali memori berharga, mengingat kembali rute jalan dan langkah-langkah yang telah dilalui pada rentang waktu kemarin. Di samping itu, ulang tahun selalu menjadi momentum tepat untuk berkontemplasi, me-review apa yang telah dilakukan, apa kurang dan lebihnya, sekaligus pula merajut rencana dan membangun harapan-harapan agar lebih baik masa depan. Ini persis seperti yang dikatakan Confucius, "pelajarilah masa lalu jika kamu ingin menentukan masa depan!"

Selama 19 tahun berkiprah, ibarat kapal, MK sejauh ini sedang berlayar menempuh ribuan mil, menyusuri samudera luas, menuju destinasi akhir dengan beragam tantangan. Ia gagah menembus ombak. Ia tegar dihajar gelombang besar. Pernah terguncang diterjang topan badai. Tetapi, tidak jarang, ia jumpai lautan tenang, udara cerah, dan melewati senja berpelangi. Indah damai.

Peristiwa demi peristiwa terjadi dari tahun ke tahun. Dari yang menyenangkan, membanggakan, hingga peristiwa yang habis-habisan menguras energi. Semua itu, di momen ulang tahun, punya satu makna: makin mendewasakan. Menjadi makin tua, itu pasti. Menjadi makin dewasa, itu pilihan. Tak luput, ini berlaku bagi MK.

Memasuki usia ke-19, ini berarti 19 tahun pula MK menjalankan tugas dan kewajiban mulia untuk memberikan dan mewujudkan harapan-harapan indah publik, masyarakat, terutama para pencari keadilan dan seluruh pemangku kepentingan MK. Segenap daya upaya dikerahkan agar mampu memikul tanggung jawab menjalankan kewenangan konstitusional dengan sebaik-baiknya.

Tidak henti-henti MK mencari, menemukan, dan menerapkan pola praktik terbaik untuk memenuhi hak publik, tidak saja dalam mendapatkan petuah-petuah perihal keadilan konstitusi, melainkan juga mendapatkan kegampangan mengakses MK. Dulu, sejak awal berdiri, 'janji' MK luar biasa. Melalui cetusan Ketua Mahkamah Konstitusi Periode Pertama, Prof. Dr. Jimly Asshiddiqie, tekad bulat menghadirkan MK yang betul-betul berwatak dan berciri modern tepercaya. Putusan berkeadilan dengan segenap proses pencapaian ke arah itu senantiasa bergerak luwes mengikuti perkembangan zaman, utamanya lompatan kemajuan teknologi yang tak terbendung.

Dalam kerangka itu, selalu ada intensi untuk memastikan bahwa mindset, paradigma, dan praktik nyata menjaga agar MK melaju di jalur dan koridor yang tepat (*on the right track*) untuk dapat mencapai serta menuju visi, cita-cita, dan tujuan-tujuan keberadaannya.

Amat disadari, di tengah perkembangan zaman, di era teknologi, di waktu-waktu yang memungkinkan perubahan-perubahan terjadi dengan cepat, MK senantiasa punya energi-energi terbarukan. Bukan saja untuk bertahan, melainkan terus berkembang kreatif untuk beradaptasi di segala medan, yang paling terjal sekalipun. Seperti ungkapan yang sering dikutip, di era perubahan seperti sekarang ini, bukan spesies terkuat yang mampu bertahan hidup, melainkan dia yang paling responsif terhadap perubahan itu sendiri. Dari garis start usia ke-19 ini, perjalanan dilanjutkan ke etape berikutnya.

Ibarat buku tulis, tahun ini, di usia 19, MK memasuki lembaran kosong pertama dari 365 halaman buku. Buku baru akan dituliskan tahun depan. Maka, jangan tunggu nanti-nanti. MK harus menjaga diri agar mampu menuliskan gurat-gurat tulisan terbaik di lembar demi lembar halaman buku itu. Bukan sembarang tulis. Tidak asal menulis. Melainkan, gurat tulisan dengan pancaran sinar keadilan yang berkelas, kontributif, diingat dan mendapat apresiasi di lubuk hati terdalam seluruh rakyat. Karena tulisan itu selalu dirindukan sebagaimana seharusnya ia harus dapat menjadi manifestasi MK sebagai perwujudan atau 'wakil' Tuhan di atas bumi Pancasila tercinta. Ini tidak main-main. Dirgahayu MK! Salam Konstitusi!

Window

VIVERE PERICOLOSO

I D.G.Palguna

"Believe me! The secret of reaping the greatest fruitfulness and the greatest enjoyment from life is to live dangerously."

Friedrich Nietzsche, Prussian (German) philosopher.

The expression of vivere pericoloso clinged to President Sukarno. Because it was "Si Bung Besar" that popularized him as political jargon in Indonesia. This Italian phrase refers to "to live with danger" or "to live with danger". This phrase was used as the title of a state speech by President Sukarno on August 17, 1964, in commemoration of the proclamation of independence. Then it was published as a book with the title "TAVIP, Year of Vivere Pericoloso" which can now also be read in the book Under the Flag of the Revolution Volume II. In that speech, President Sukarno described that the Indonesian Revolution was in the year of vivere pericoloso, a year that was full of dangers—from outside as well as from within. From the outside, the threat came from the new colonialists and new imperialists. From within, the danger comes from those who shout loudly for the revolution on their lips, but deep down they have another agenda.

Therefore, it is reminded, the Indonesian Revolution must not lose its spirit and direction. For that, said Bung Karno, revolution requires three conditions: romantic, dynamic, and dialectical.

"No Revolution can sustain its soul if its people cannot accept enemy attacks as the romance of the Revolution…. No Revolution can keep its head up if the people are not prepared to carry out the necessary sacrifices with their heads held high, even with smiling mouths, because they consider these sacrifices the romance of the Revolution….. I emphasize once again: The Revolution demands three absolute conditions: romantic, dynamic, and dialectical. Romantic, dynamic, and dialectical which is not only nested in the leader's chest, but romantic, dynamic, the dialectic that surges in the whole heart of the people… Without this romance which electrifies all the people, the revolution will not last. Without this dynamic which seems to drive the entire people into a frenzy, the revolution will stagnate halfway. Without a dialectical continuity to the dreams of the whole people, the people will not unite with the rising demands of the revolution, and the revolution will slowly sink into the desert of ignorance, just as sometimes a river sinks and disappears in the deserts before it reaches the ocean."

A year after making that speech, Bung Karno was defeated (or dropped) by the events of the September 30th Movement—which are still largely covered in darkness. However, vivere pericoloso in this Window is not meant to review the contents of President Sukarno's speech. Not because it's not interesting, but because too many people have discussed it. Moreover, for those who are interested, now the full contents of the speech can easily be obtained. In fact, those who like to read novels or watch movies can now easily read the novel The Years of Living Dangerously written by Christopher Koch—a novel inspired by Bung Karno's speech. This novel, which was later made into a film, tells the story of the political situation in Indonesia in the years leading up to and at the time of the downfall of President Sukarno. During President Suharto's reign, this film was not only banned from distribution in Indonesia but also did not obtain a shooting permit nor did it obtain a permit in Indonesia—so the film had to be shot in the Philippines. The reason for the ban is rather absurd; the scenario of the film does not describe the actual situation in Indonesia at that time. Then, what is the "business" of vivere pericoloso, a.k.a life full of danger, with Nietzsche? Danger is often close to misfortune. In many ways, danger even

coexists with misfortune. However, many records tell how misfortune actually makes a person transform to then "deceive" danger and finally emerge as a winner. One such person was Friedrich Wilhelm Nietzsche. Nietzsche was born on the same date as King of Prussia, Friedrich Wilhelm IV. That's because the name Friedrich Wilhelm was fastened by his father as his first and middle name. However, the "luck" seemed to end there. The rest are poor bullies: left by their father when they were young, shy, and physically very weak caused by the beating of various diseases. In fact, at the young age of 18, Nietzsche lost his belief in God—a paradox when considering his family background as a priest. No one expected that from behind the misfortunes of life that grazed danger, an existentialist figure would emerge who shook European philosophical thought from the mid to late 19th century. Did his bitter life experience then generated to his eccentric belief, that "because in this life the strong win, the main virtue in life is strength"? As a continuation of this postulate; therefore, what is said to be wholesome, as something good, must be strong; conversely, or consequently, something weak is both bad and wrong. Because of that belief, the late Fuad Hassan—educator, former Minister of Education and Culture who is also a diplomat and a scholar of philosophy—calls Nietzsche "the most obvious example of philosophy which emphasizes the logic of power, not the strength of logic".

Furthermore, according to Nietzsche, the main virtue "postulate" that relies on strength applies not only in interactions between humans but also between nations. Therefore, fighting for power and war is a necessity that must be accepted in relations between humans and between nations. Thus, the main task of human life is to generate superhumans, ueber menschen, humans who will lead other humans, and mass humans who are only average. Such people will only be born from the ideal combination of three things: strength, intelligence, and pride. It may sound cruel, but that is the nature of nature, said Nietzsche. Therefore, for Nietzsche, the notion that humans or nations are equal, it must not only be thrown away but is also absurd because it contradicts the nature of nature. In other words, in Nietzsche's view, democracy is an idea that violates nature because it starts from the notion of equality between people and between nations. While the facts show, in society, there are always only two groups, namely those who rule and those who are governed. Those who rule do not occupy that position as a result of the notion of equality among fellow human beings, but because they are strong, intelligent, and proud. Therefore, the ideal social order is not democracy but aristocracy. However, it is not just any aristocracy, not a hereditary aristocracy, but an aristocracy is led by humans who meet the ueber-menschen requirements.

Nietzsche's rejection of equality between people, which then continues to reject equality between nations, has serious consequences. Some nations deserve to be leaders and others that only deserve to be led. A weak nation must be willing to surrender to be led by a strong nation. Thus, the conquest by a nation against another nation in the name of strength and majesty is valid. It is the nature of nature. Hence, a nation that considers itself stronger (and therefore should be a leading nation) is legitimate to fight another nation that is considered weak if this nation that is considered weak does not want to submit itself voluntarily to be subdued under the leadership of a nation that considers itself stronger. This is what causes some observers to associate Nietzsche's ideas with the birth and rise of German Nazism—although more experts or observers take a cautious position not to immediately connect Nietzsche's ideas with Nazism and put the similarities between the two as mere coincidences, especially after Nietzsche got his masterpiece, Also Sprach Zarathustra (which was translated Thus Words Zarathustra in Indonesian).

No one disputes that Zarathustra is called a magnum opus, Nietzsche's greatest and monumental work – which is not sufficiently discussed in this narrow Window. Because, the big question: how to explain someone who is in a state of mental illness actually generate a monumental work in the form of a philosophical novel consisting of four parts in which anger, sensitivity, intimacy, humor, and all things related to our appreciation of and as) human? In this regard, Fuad Hassan gave an interesting note, "It is clear that Nietzsche's failure in association with fellow human beings that caused him to alienate himself from them has made Nietzsche face himself who was incarnated as the imago Zarathustra."

Apart from all the controversy about Nietzsche himself and his life, there is one thing that makes many people dumbfounded, especially researchers of the history of world wars. The problem is, like astrologers, in 1887 Nietzsche—who considered the democratic government to be a government of the merchants—had stated that fifty years later democratic countries would be involved in disputes and would be involved in a major war fueled by trade interests among themselves. in this case is the world market competition. Coincidentally or not, the fact is that from September 1939 to September 1945, countries were involved in a major war, World War II – a war which, according to historical records, has claimed up to 70 million lives so it is considered the deadliest conflict in human history.****

*Note: most of this article is taken and processed from Fuad Hassan, Berkenalan Dengan Eksistensialisme, Pustaka Jaya: Jakarta, 1989.

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OUR COURT

When celebrating the anniversary, prayers and new hopes are always said. Then, what prayers and hopes were said for the 19-year-old Constitutional Court (MK) on August 13, 2022?

When referring to the Constitution, at least there are prayers and hopes for this nine-pillar judiciary. Prayer is for the Constitutional Court to become an independent power to administer justice to uphold law and justice under the provisions of Article 24 paragraph (1) of the 1945 Constitution. In line with this prayer, according to Nuno Garoupa and Tom Ginsburg, the main factor in realizing an independent judiciary is the process of selecting judges free from the interference of other institutional powers and high-quality decisions (2009; p. 103-104).

The selection of constitutional judges in three institutions (House of Representatives, Supreme Court, and President) does not fully guarantee the realization of judicial independence. Moreover, the three institutions carry out different selection models from each other. Whereas Article 24C Paragraph (3) of the 1945 Constitution only stipulates that three constitutional judges are "submitted" by three institutions to the President for the appointment. The constitution does not regulate the process and who has the authority to make selections. The Judicial Commission (KY) can carry out this selection authority. Three institutions can apply to the KY to carry out the selection process for constitutional judges. The best candidate judges as a result of the selection can be submitted to three institutions which are then proposed to the President to be appointed as elected constitutional judges. This selection model guarantees the independence of the judiciary.

Another model is actually applied in Law Number 7 of 2020 concerning the Constitutional Court (UU MK) which is intended to neutralize the political selection process. In order to keep political interests at bay in the process of selecting judges, a judge's tenure model is applied which is long or for life—as long as they have good behavior. The new Constitutional Court Law stipulates a long term of office for constitutional judges, namely 15 years or those who have reached the age of 70 years. The long term of office is expected to be able to end political relations that may arise between judges and the electorate. This provision also buried the process of re-election for the terms of office of the two judges. Hence, judges do not have to "please" the electorate in order to be re-elected. Even though this model is good, the provisions of the law are not appropriate to be applied directly to judges who are currently serving.

The first prayer relates to other expectations, namely regarding the quality of decisions and the capacity of judges. Article 24C Paragraph (5) of the 1945 Constitution stipulates that judges must have integrity and a personality that is beyond reproach, be fair, and be a statesman who masters the constitution and state administration. Although the constitution guarantees the quality of judges, the quality of Constitutional Court decisions is often questioned. Whereas judicial *muruah*/value is closely related to the quality of the judge's decision.

The Constitutional Court's decisions often use a model of legal interpretation rather than constitutional interpretation. Even though the interpretation of the law is

not entirely correct in upholding constitutional values, it can even go too far in interpreting the intent of the articles of the constitution. Thus, the decisions of the Constitutional Court are often not in sync with one another. For example, regarding the Commission for corruption Eradication (KPK) as an independent institution and not under executive power. There are two poles of the Constitutional Court's decision regarding the status of the KPK. The latest decision positions the KPK as an institution under the President. It is in contrast to several previous decisions that regulated the KPK as being independent of other powers, including the power of the President.

The reasons for changing the polarity of the decision were not read. Some argue that the Constitutional Court did not implement the previous judge's decision. Whereas, according to the science of constitutional interpretation, a change in the Constitutional Court's decision can occur due to two circumstances, namely: (a) some circumstances are different from the previous decision so that a new decision needs to be addressed differently; (b) changes to decisions can be made through amendments to the constitution by taking into account the development of new constitutional values.

Judges use all models of interpretation that they believe are correct. However, judges are not allowed to arbitrarily choose a model of constitutional interpretation based on what interests they need. That's why it's normal for a judge to have scientific work in addition to decisions, such as brilliant judges like Antonin Scalia, Ruth B. Ginsburg, to the most popular ones like John Marshall or Jimly Asshiddiqie.

In various advanced democracies, judges' books can be read and their thoughts reviewed. The way of thinking of judges escorted by the public is based on their scientific work. If it is not productive in scientific work, the judge's decision must openly present the arguments of the judges. Do not let the track record of his thoughts in the decision during his 15-year term of office be unknown. The problem is, the Constitutional Court did not quote which judge's views were used in a decision. Dissenting opinions and concurrent opinions are visible from the individual judges' thoughts. furthermore, not every judge's opinion is consistent. They just explore the decisions regarding the formal trials of the Job Creation Law and the Constitutional Court Law. In the first decision, the judge felt that public participation in law making was not too important, but in other decisions, they felt it needed to be implemented. Naturally, then the public feels that building consistency in the judge's decision is very necessary.

Improvement

Why is the improvements discussed above regarding judges and their decisions? The answer is very easy because the administration of justice in the Constitutional Court is extraordinary. From the first period until now, Constitutional Court (MK) has improved its various services. Courts and other judicial processes have much to learn from the Constitutional Court.

For example, about obtaining a decision, since the decision has been read out in a matter of seconds, the parties have been able to obtain the decision and the public can access it immediately. Compared to other judicial processes, when executing decisions, only excerpts of decisions are used. The Constitutional Court was not caught up with this administrative service. Even when the execution was carried out, the basis for this was an excerpt of the decision. This achievement has been made since the Constitutional Court was under the leadership of the first generation of constitutional judges.

Constitutional Court (MK) is currently growing. It is no longer even necessary to file 12 duplicate applications to file a case. Enough for the application to be sent online, the case can already be registered and executed. This policy signifies MK's modernity as well as being part of protecting forests from the habit of using paper.

As an institution filled with humans, 19 years is of course full of ups and downs in its journey. Improvements and achievements hopefully do not make MK forget about itself. Hopefully, all the weaknesses that have occurred will not be repeated and our Court will always be avoided a shameful catastrophe. Happy Anniversary MK!

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MOMENTUM

19 Years Journey of the Constitutional Court

Santika Hotel, the temporary office of the Constitutional Court.

Judge's pledge taking at the State Palace, 16 August 2003.

The Constitutional Justices for the 2003-2008 term led by the oldest Constitutional Justice, Achmad Roestandi, were holding elections for the Chief and Deputy Chief Justices of the Indonesian Constitutional Court at the Meeting Room of the Chief Justice of the Supreme Court, on August 19, 2003.

Plaza Centris was once used by Constitutional Court as a temporary office.

Swearing of oath in of Chief Justice of the Constitutional Court for 2006-2008 Term of Office Jimly Asshiddigie at the Constitutional Court Building Jl Medan Merdeka Barat 7 Central Jakarta, attended by Indonesian President Susilo Bambang Yudhoyono and Indonesian Vice President Jusuf Kalla along with other Constitutional Justices.

For the first time, the Constitutional Court held the hearing in the Nusantara IV building, the People's Consultative Assembly, and the House of Representative Complex, Senayan, Jakarta. (November 4, 2003)

The Constitutional Court (MK) on July 23, 2004, granted the request for review of Law Number 16 of 2003 concerning the Stipulation of Government Regulation in lieu of Law Number 2 of 2002 concerning the Enforcement of Government Regulation in lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism, in the Event of a Bomb Explosion in Bali dated 12 October 2002 Becomes Law against the 1945 Constitution of the Republic of Indonesia.

Nine Constitutional Justices 2003-2008 when they finished holding the Election of Chief and Deputy Chief Justices of the Constitutional Court for the 2006-2008 term in the MKRI Courtroom Jl. Medan Merdeka Barat 7 Central Jakarta.

The Constitutional Court on 12 April 2005 decided that the Electricity Law (LNRI Year 2002 Number 94, TLNRI Number 4226) was contrary to the 1945 Constitution and stated that it had no binding legal force.

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The placement of the first pillar of the Constitutional Court building was marked by pressing a button by the Chief Justice of the Constitutional Court accompanied by Constitutional Justices and the Secretary General of the Constitutional Court, on 17 June 2005.

The Constitutional Court on October 19, 2005, decided that a minimum of 20% of the Education budget must be prioritized and may not be reduced by laws and regulations that are hierarchically below it.

The Constitutional Court on March 22, 2006, decided Law of the Republic of Indonesia Number 13 of 2005 concerning the State Revenue and Expenditure Budget for Fiscal Year 2006 insofar as it concerned the education budget of 9.1% as the highest limit, contrary to 1945, Constitution.

The Constitutional Court on December 6, 2006, decided that the article governing the criminal act of insulting the President and Vice President in the Criminal Code is contrary to the 1945 Constitution.

The Constitutional Court's decision states that individual candidates have the right to take part in regional elections, 23 July 2007

The Constitutional Court's decision on stated that former political prisoners and convicts of negligence had the right to become public officials, December 12, 2007.

President Susilo Bambang Yudhoyono accompanied by Constitutional Court's Chief Justice Jimly Assiddiqie and MK Secretary General Janedjri M. Gaffar when inaugurating the MK Building on 13 August 2007.

The Constitutional Court's decision stated that the education budget in the 2008 Revised State Budget was 15.6% contrary to the 1945 Constitution on August 13, 2008.

The Constitutional Court's decision states that the death penalty is not against the 1945 Constitution, 30 October 2007.

Chairman of the Constitutional Court Moh. Mahfud MD with the presidential and vice presidential candidates as well as the General Election Commissions chairman and The General Election Supervisory Agency chairman taking a group photo after a coordination meeting ahead of the 2009 presidential election, on July 6, 2009.

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The Constitutional Court examined and decided cases of disputes over the results of the 2009 Legislative Elections.

The use of e-voting is allowed after the Constitutional Court granted the request for a review of Law no. 22/2004 on Regional Government for some. The Panel of Judges confirmed that Article 88 of the Local Government Law is conditionally constitutional against Article 28C paragraph (1) and paragraph (2) of the 1945 Constitution, March 30, 2010.

Presidential candidate Megawati Soekarnoputri directly submitted her request to the Constitutional Court to annul the results of the 2009 presidential election.

The Constitutional Court decided to reject the request for a dispute over general election results (PHPU) submitted by the presidential candidate Jusuf Kalla Wiranto and Mega-Prabowo. August 12, 2009.

The Constitutional Court annulled the articles governing Coastal Waters Concession Rights (HP3) in Law number 27 of 2007 concerning the Management of Coastal Zone and Small Islands, on June 16, 2011.

"Children born outside of marriage still have a civil relationship with their biological father, as long as it can be proven based on evidence recognized by law". This is the gist of Decision Number 46/PUUVIII/2010, which was read out on February 17, 2012.

The Constitutional Court granted the request for review of Article 31 paragraph (4) of Law 11/2008 concerning Electronic Information and Transactions. The Constitutional Court stated that the issue of wiretapping was not properly regulated in government regulation and had to be regulated in law, on February 24, 2011. (Photo in the 2011 annual report, part of the journey)

The Constitutional Court ruled that the registration of births that exceeded the one-year time limit was carried out based on a court decision to be unconstitutional. In Decision Number 18/PUU-XI/2013, the Court considered that the court's decision was burdensome to the community, on April 30, 2013.

The Constitutional Court declared Article 108 paragraph (1) of Law No. 36 of 2009 concerning Health contrary to the 1945 Constitution. Thus, village paramedics throughout Indonesia may serve the community like doctors/pharmacists in emergencies, on June 27, 2011. (Photo in the 2011 annual report, part of the journey)

The Constitutional Court opened the registration for legislative elections. A total of 903 cases were filed by 12 national political parties, 2 local Acehnese political parties, and 34 candidates for Regional Representative Council members from 32 provinces throughout Indonesia, on May 9-12 2014. (Photo in the 2014 annual report, section on the trail of events).

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The Constitutional Court examined and decided cases of disputes over the results of the 2009 Legislative Elections.

After going through 30 working days in examining cases over the 2014 General Election Results Disputes for Members of the House of Representatives, Regional Representative Council, and Regional People's Representative Assembly (PHPU Legislative), the Constitutional Court finally completed one of its powers, on June 30, 2014.

The Constitutional Court decided to reject the request for a dispute over general election results (PHPU) submitted by the presidential candidate Jusuf Kalla Wiranto and Mega-Prabowo on August 12, 2009.

The Constitutional Court rejected the application of the Presidential and Vice-Presidential Candidate Pair Prabowo Subianto-Hatta Rajasa regarding the 2014 Presidential PHPU - No. 01/PHPU.PRES/XII/2014, on August 21, 2014.

The Constitutional Court granted a partial application for judicial review of the Prevention and Eradication of Forest Destruction Law and the Forestry Law submitted by several farmers and environmental organizations. The decision stated that people in the forest are not prohibited from collecting forest products. December 10, 2015.

The Constitutional Court canceled in its entirety Law no. 7/2004 concerning Water Resources (SDA) for not fulfilling the six basic principles of limiting the management of water resources, on February 18, 2015.

The Constitutional Court stated that they rejected the application for the dispute over the results of the 2019 General Election for the President and Vice President which was filed by the Prabowo Subianto-Sandiaga Salahuddin Uno presidential and vice-presidential candidates. The parties took a group photo after declaring the decision.

CONSTITUTIONAL COURT IS 19 YEARS OLD

The Constitutional Court (MK) is no longer such a sacred place, which is only 'visited' by elites who have an interest in certain policies. The Constitutional Court now feels closer to the general public, following the increasing number of individual citizens going back and forth to test a statutory product. The Constitutional Court is no longer a place for famous lawyers or legal experts to explain juridical, philosophical or sociological arguments for the application of provisions."
("The Constitutional Court is Not 'Sacred' Anymore" published by KOMPAS on April 10, 2022)

At 19 years old, in terms of the facade of the building, the Constitutional Court (MK) has not had any significant changes. However, in its mission to increase the constitutional awareness of citizens and state administrators, perhaps the Constitutional Court can be considered to be successful.

In Erik Erikson's theory of psychosocial development, the age of 19 is the age of late adolescence and is located in Stage 6, namely establishing closeness (intimation vs isolation). At the age of 19, Erikson said humans tend to find identity and begin to share their lives with others. It seems that this theory also applies to the Constitutional Court (MK) in the life of the nation and state.

For 19 years with its identity as an interpreter of the Constitution, the Constitutional Court has attempted to uphold substantive justice for the litigants. Not only focusing on its core business as a judicial institution, but the Constitutional Court is actively trying to make the public know and understand the constitutional rights guaranteed by the 1945 Constitution. This effort is in line with the Constitutional Court's mission to increase awareness of the constitutionality of citizens and state administrators.

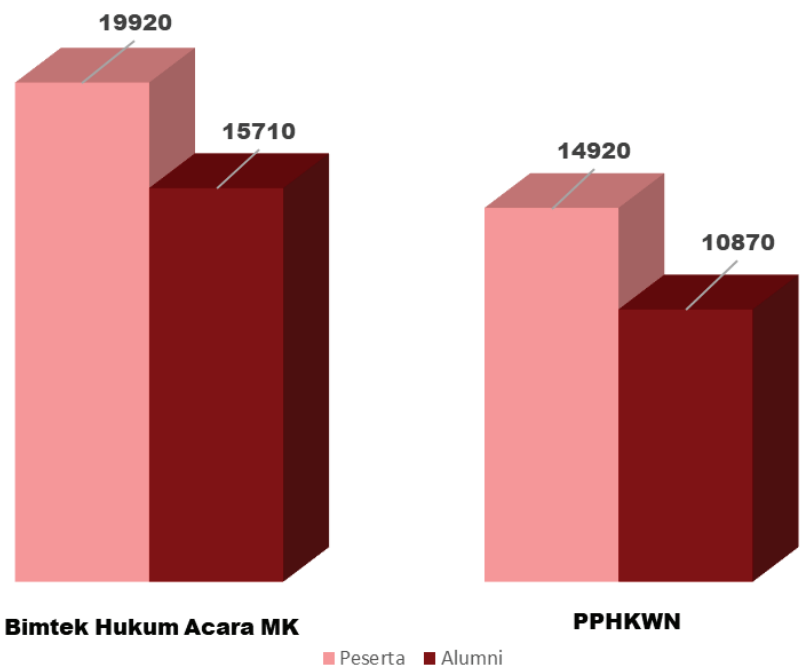
The Constitutional Court has taken various efforts so that the public understands their constitutional rights, starting with technical guidance (bimtek) or increasing citizens' constitutional rights; web seminars/workshops; constitutional debate; moot court competition; inauguration of constitutional villages, establishing cooperation with universities (friends of the court), and others. In addition, the Constitutional Court also began to socialize the constitutional rights of citizens by launching 66 icons of citizens' rights guaranteed by the 1945 Constitution.

The Socialization of HKWN

Some efforts were taken by the Constitutional Court so that people are aware of their constitutional rights. Technical guidance (bimtek) is one of the methods chosen by the Constitutional Court in socializing citizens' constitutional rights (HKWN) guaranteed by the 1945 Constitution. The technical guidance targets parties involved in the legal field, such as advocates, legal analysts, members of political parties, and others. In addition to socializing and instilling an understanding of the Constitution and the Rules of Procedure of the Constitutional Court and constitutional issues, the Bimtek was also held to provide information on various aspects of the Constitutional Court—including the latest developments in the implementation of the constitutional duties of the Constitutional Court.

The material obtained by the technical guidance participants varied from understanding Pancasila and the Constitution, as well as regarding the procedural law of the Constitutional Court. Even though it was only held in 2013, the alumni of the Bimtek activity have reached 15,710 participants.

Of the huge public interest in understanding their constitutional rights, the Constitutional Court through the Center for Pancasila and Constitutional Education located in Cisarua, Bogor, took the initiative to organize an Improvement of Understanding of Citizens' Constitutional Rights



Statistics on the Number of Technical guidance and PPHKWN Participants./Photo: pusdik.mkri.id

Chief Justice of the Constitutional Court Anwar Usman was a speaker at the technical guidance event for interfaith leaders in October 2019. /Photo: Agung

(PPHKWN). If the technical guidance targets participants from certain groups, such as advocates and people working in the legal field, PPHKWN activities cover the general public. Some of the PPHKWN activities carried out include the Mobilization Teacher (March 2022); Indonesian Association of Persons with Disabilities (December 2021); Association of Citizenship Education Lecturers (ADPK) (October 26-29, 2021); Indonesian Architects Association (March 2 – 5, 2020); leaders of interfaith organizations throughout Jabodetabek (October 22 – 25, 2019); Interfaith Women Activists (October 15 – 18, 2019); and others.

The Launch of 66 HKWN Icons

Another way that is considered effective to make people understand their constitutional rights as citizens is by launching 66 HKWN icons on December 27, 2021, at UNEJ, Jember, East Java. The launch of the Icon of Citizens' Constitutional Rights in collaboration with the Teaching Association of Constitutional Law and State Administrative Law (APHTN-HAN) and the Faculty of Law, University of Jember (FH UNEJ).

The launching of the HKWN icon is an effort to disseminate and socialize the constitutional rights of citizens as contained in the 1945 Constitution. The constitutional rights of citizens as contained in the articles of the 1945 Constitution are loaded with iconic symbols with certain colors with the aim that these constitutional rights are easier to remember, understand, and internalized," said the Secretary General of the Constitutional Court M. Guntur Hamzah at the launch of the 66 HKWN Icons.

The HKWN icon is packaged in the form of an i-HKWN pocket book. It is expected that with the form of a pocket book that is easy to carry and people can easily understand their constitutional rights. The Constitutional Court made symbolically the 66 rights icons which were divided into three groups namely individual rights, collective rights, and the rights of vulnerable people.

Hence, from the various efforts made by the Constitutional Court to raise people's awareness of their constitutional rights, have there been any changes that can be seen for 19 years?

If we look at the cases of judicial review (PUU) that went to

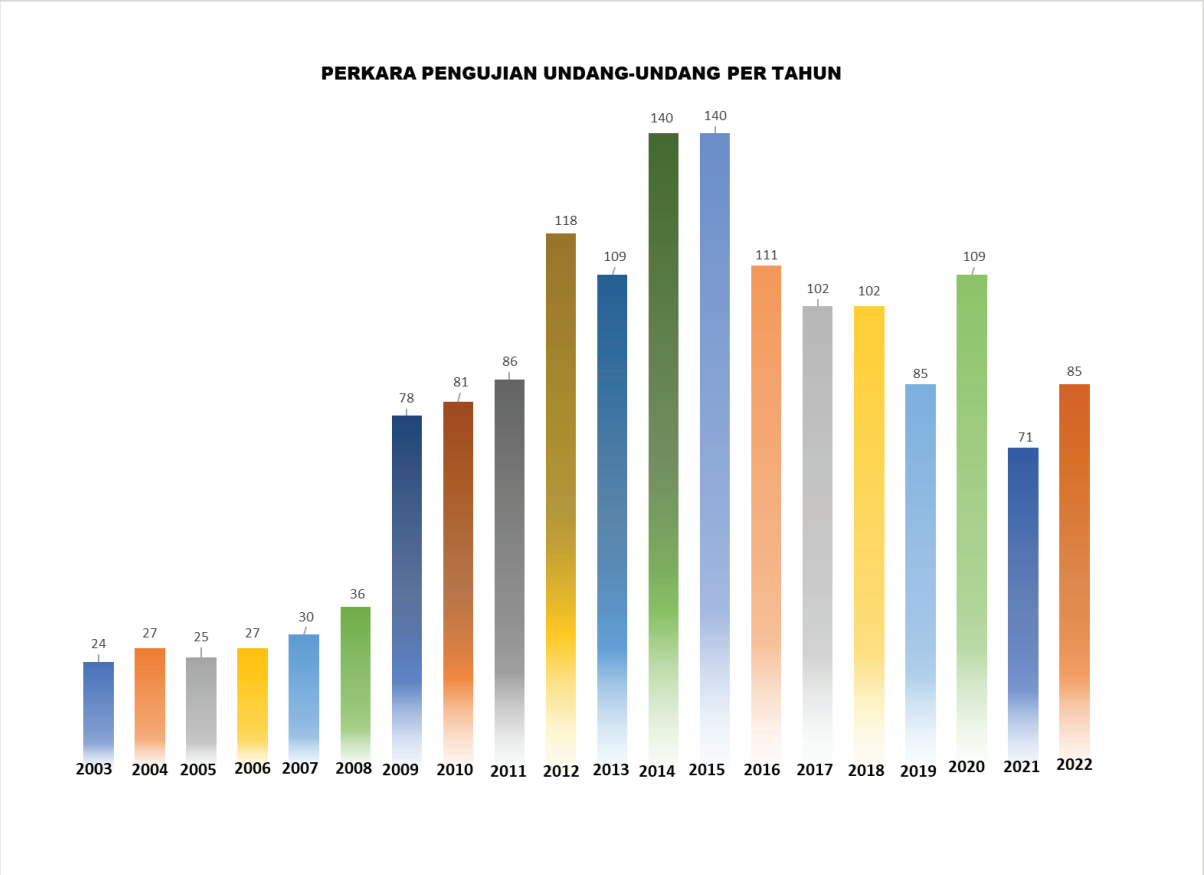
Chief Justice of the Constitutional Court Anwar Usman accompanied by the Secretary General of the Constitutional Court M. Guntur Hamzah and the Dean of the Faculty of Law UNEJ Bayu Anggono after the launch of i-HKWN on December 27, 2021. Photo: PR

the Constitutional Court, there is a significant increase in Judicial Review cases to MK. Since the holding of the Technical Guidance in 2013, there has been an increase in the number of cases reviewing laws. If in previous years, the average number of Judicial Review cases received by the Constitutional Court was around 53.2 cases per year (2003 – 2013), then there was an increase to 105.4 cases per year (2013 – 2022).

Various Petitioners

Previously, the applicants who filed Judicial Review cases were only dominated by petitioners working in the legal world, so now the general public is not anti-compliant against violations of their constitutional rights to the Constitutional Court.

The Icon of Citizens' Constitutional Rights (i-HKWN).



Sumber: simppbaru.mkri.id

Throughout 2022, we can see the diverse backgrounds of the petitioners for judicial review, for example, examined Law Number 3 of 2022 concerning the State Capital (UU IKN), which is the second most tested law in 2022, is 11 (eleven) cases.

One of the Petitioners for testing the IKN (State Capital) Law is Mulak Sihotang who is registered as the Petitioner for Case Number 47/PUU-XX/2022. He works as a bus driver. Even so, he drafted a request and advanced on his own in fighting for his constitutional rights which were violated by the enactment of the IKN Law before the Council of Constitutional Justices. In his application, Mulak considered that the transfer of IKN from Jakarta to Kalimantan was too far.

"The central location of the nation's capital must be able to accommodate all the interests of the majority of society, especially those in the western part of Indonesia because those who live in the office complex are servants of the state, they are servants, protectors, and protectors of the community. Workers who work here earn wages from tax collections from the people. So the concept of Law Number 3 of 2022 contradicts the principles of many people, benefits people who have an interest, and harms society and the country in the future," said Mulak in a hearing held on April 19, 2022.

Another example is the review of Law Number 13 of 2003 concerning Manpower Law which was proposed by a woman who works as a homeworker. In Case Number 75/PUU-XX/2022, the Petitioners argued that as homeworkers, they did not get the same rights as workers working in the formal sector. This is because the status of the homeworkers is deemed not to meet the criteria for an employment relationship as referred to in Article 1 point 15 and Article 50 of the Labor Law. This provision only applies to workers who have a relationship with the employer. Meanwhile, homeworkers are not based on a relationship with employers. For this reason, the Petitioners hope that the Panel of Constitutional Justices will declare those articles annulled.

In addition, Mochamad Mashuri examined the rules

regarding the obligation of students to share in the costs of education as stipulated in Article 12 paragraph (2) letter b of Law Number 20 of 2003 concerning the National Education System (UU Sisdiknas). As a parent of students, Mashuri objected to this article because according to him, education funding should be the responsibility of the state. Therefore, he requested that the Court cancel the validity of the article.

Finally, when the price of cooking oil soared, Muhammad Basri, who works as a pecel lele seller, took a constitutional path regarding the scarcity of cooking oil. In Case Number 51/PUU-XX/2022, Basri materially examined the rules regarding the prohibition of storing necessities in times of scarcity as stipulated in Article 29 paragraph (1) of Law Number 7 of 2014 on Trade (Trade Law). He revealed that he was hampered from working and selling fried chicken because cooking oil was not available or cooking oil was expensive according to reasonable reasoning. Therefore, he requested that the provisions of Article 29 paragraph (1) of the Trade Law contradict the 1945 Constitution and have no binding legal force, as long as they are not construed, storage of staple goods and/or important goods can be stored by entrepreneurs if there are no shortage goods, there are no price fluctuations and/or there are no barriers to goods trade traffic.

The various backgrounds of a handful of Petitioners above seem to prove how the Constitutional Court is still trusted by the public to protect their constitutional rights that have been violated by law—which are products of the House of Representatives and the Government. Public trust is a valuable thing that must be maintained by the Constitutional Court as a judicial institution.

Mulak Sihotang, who works as an angkot/ public transportation driver, was a petitioner in testing the IKN (the nation's capital) Law. He was present at the first hearing which was held on April 19, 2022. Photo: Ifa

The Improvement of Constitutional Court

Despite the achievements at the age of 19, the Constitutional Court must still be able to improve and maintain its independence. Professor of Political Science at the University of Chicago Law School Tom Ginsburg said that there is a vulnerability for a judiciary to be exploited by populists. In the Constitutional Law Forum 2022 (ConLaf 2022) event held by Constitutional Court in collaboration with IDEA and PuSaKo UNAND, Tom stated that populists do not like institutions and the Constitutional Court is included in an institution. Based on his research, Tom said there are things that populists will do if they don't like an institution. First, they will replace personnel in the institution. Then, they will change the authority of the state institution.

"Lastly, they will change the procedure. Changing the authority or procedural law of the court in order to prevent cases related to them from going to court or even making a case that they want to go to court, "explained Tom in an event that was held on Thursday (8/18/2022).

Hence, Tom hopes that the Constitutional Court of the Republic of Indonesia (MKRI) will remain a constitutional court that safeguards the constitutional rights of Indonesian citizens. "I hope that the MKRI will continue to be the guardian of citizens' constitutional rights, not a 'political institution'," he said at the event.

A wise saying goes, "Getting older can make you livelier. More interested in many interests, more broadening of intelligence, more authority, and more broadening of reach. Long live the Constitutional Court! ■

(LULU ANJASARI P.)

Guru Besar Ilmu Politik University of Chicago Law School Tom Ginsburg yang hadir langsung di MK pada Kamis (18/8) silam. Foto: Humas

CONSTITUTIONAL COURT

HEARING PROTOCOLS

MUST WEAR MASKS AND GLOVES, CHECK BODY TEMPERATURE, AND KEEP A DISTANCE.

THE PARTIES CAN ATTEND THE HEARING THROUGH A VIRTUAL HEARING

IMPLEMENTING RESTRICTIONS ON ATTENDANCE IN THE COURTROOM FOR PARTIES TO A MAXIMUM OF TWO PEOPLE

SPRAYING DISINFECTANTS ON ALL COURT FACILITIES AND INFRASTRUCTURE WHICH INCLUDES COURTROOMS, COURT WAITING ROOMS, COURT RECORDING ROOMS, TOILETS, AND ALL EQUIPMENT.

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JUDICIAL REVIEW DECISIONS IN AUGUST 2022

No.	Case Number	Case Subject	Petitioners	Decision	Date	Decision Link
1	74/PUU-XX/2022	Material Review of Law Number 8 of 2012 concerning General Elections for the People's Representative Council, Regional Representative Council, and Regional People's Representative Council and Material Review of Law Number 42 of 2008 concerning General Election of the President and Vice President	Septriwahyudi	Withdrawn	August 31, 2022	CLICK DECISION
2	38/PUU-XX/2022	Material Review of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations	Tommy Chandra Kurniawan, Daniel Maringantua Warren Haposan Gultom, Mira Sylvania Setianingrum, and Lingga Nugraha	Reject the Petitioner's application in its entirety	August 31, 2022	CLICK DECISION
3	38/PUU-XIX/2021	Material Review of Law Number 40 of 1999 concerning the Press.	1. Heintje Grontson Mandagie as Petitioner I; 2. Hans M Kawengian as Petitioner II; and 3. Soegiharto Santoso as Petitioner III	E. Ramos Petege dan Yanuarius Mot	E. Ramos Petege dan Yanuarius Mot	CLICK DECISION
4	43/PUU-XX/2022	Material Review of Law Number 2 of 2021 concerning the Second Amendment to Law Number 21 of 2001 concerning Special Autonomy for Papua Province	E. Ramos Petege and Yanuarius Mot	Rejecting the Petitioner's application in part (Unacceptable)	August 31, 2022	CLICK DECISION

5	47/PUU-XIX/2021	Material Review of Law Number 2 of 2021 concerning the Second Amendment to Law Number 21 of 2001 concerning Special Autonomy for the Province of Papua and Law Number 21 of 2001 concerning Special Autonomy for Papua Province	The Papuan People's Council, represented by Timotius Murib as Chairperson and concurrently Member of the Papuan People's Council from the Indigenous Peoples' Representative element, Yoel Luiz Awalt, S.H., as Deputy Chairperson I and concurrently Member of the Papuan People's Council from the Religious Representative element, and Debora Mote, S.Sos. , as Deputy Chairman II concurrently as a Member of the Papuan People's Assembly from the Women's Representative element.	Rejecting the Petitioner's application in part (Unacceptable)	August 31, 2022	CLICK DECISION
6	65/PUU-XIX/2021	Material Review of Law Number 21 of 2008 concerning Sharia Banking	Rega Felix	Reject the Petitioner's application in its entirety	August 31, 2022	CLICK DECISION
7	64/PUU-XX/2022	Material Review of Law Number 7 of 2017 concerning General Elections	The Indonesian Solidarity Party (PSI), represented by Giring Ganesha Djumaryo as General Chair and Dea Tunggaesti as Secretary General	Reject the Petitioner's application in its entirety	August 31, 2022	CLICK DECISION
8	67/PUU-XX/2022	Material Testing Law Number 33 of 2014 concerning Guarantees for Halal Products and Law Number 11 of 2020 concerning Job Creation	Ainur Rofiq, Mohamad Dahlan Moga, Khoirul Umam, et al.	Rejecting the Petitioner's application in part (Unacceptable)	August 31, 2022	CLICK DECISION

THE PROSPECTORS QUESTIONING THE RETIREMENT AGE LIMIT

THE CONSTITUTIONAL Court (MK) held a preliminary examination hearing for the material review of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia (Attorney Law). The hearing was carried out by a panel of judges led by Constitutional Justice Suhartoyo accompanied by Constitutional Justices Arief Hidayat and Saldi Isra, on Tuesday (7/19/2022) online from the MK Plenary Session Room.

The petition for case Number 70/PUU-XX/2022 was filed by five prosecutors. They were Intensive (Petitioner I), Zulhadi Savitri Noor (Petitioner II), Wilmar Ambarita (Petitioner III), Renny Ariyanny (Petitioner IV), Indrayati Siagian (Petitioner V). The material being petitioned for review was Article 12 letter c and Article 40A of the Prosecutor's Law. Viktor Santoso Tandiasa as the attorney for the Petitioners said that the enactment of the Prosecutor's Law resulted in losses for the Petitioners. Petitioner I turned 60 years old on March 1, 2022. Applicant II turned 60 years old on March 3, 2022. Applicant III turned 60 years old on April 16, 2022. Based on this norm, Applicants I-III were directly affected by entering retirement age. Likewise, Petitioner IV and Petitioner V have the same interests as prosecutors. Applicant IV would turn 60 years old on 24 November 2022. Applicant V would turn 60 years old on October 24, 2022.

Based on the provisions of the Prosecutor's Law, Petitioner IV and Petitioner V will be forced to resign with honor. These provisions impede the career and promotion achievements of Petitioners IV and V. With these provisions, the Petitioners do not receive guarantees and fair legal protection and equal treatment before the law as guaranteed in Article 28D paragraph (1) of the 1945 Constitution. In addition, as citizens, they also do not get the same opportunity as stipulated in Article 28D paragraph (3) of the 1945 Constitution. (Nano Tresna Arfana/Nur R.)

JUDICIAL REVIEW TEST OF INTERFAITH MARRIAGE IN THE POPULATION ADMINISTRATION LAW

THE CONSTITUTIONAL Court (MK) held a hearing for material review of Law Number 23 of 2006 concerning Population Administration in conjunction with Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration (UU Adminduk) on Thursday (7/21/2022) online in the Plenary Session Room of the Constitutional Court. The agenda for the hearing of Case Number 71/PUU-XX/2022 is a preliminary examination. The hearing was conducted by a panel chaired by Constitutional Justice Enny Nurbaningsih accompanied by Constitutional Justice Wahiduddin Adams and Constitutional Justice Saldi Isra.

The application for review of the Population Administration Law was submitted by Emir Dhia Isad, Syukrian Rahmatul'ula, and Rahmat Ramdani. The norm proposed for review is the Elucidation of Article 35 letter of the Population Administration Law. The Petitioners as law graduates in the field of family law who study and understand the Marriage Law do not agree with the provisions of the Elucidation of Article 35 letter a of the Population Administration Law which allows marriage without being preceded by a religious ritual as stipulated in Article 2 paragraph (1) of the Marriage Law. During the hearing, Emir Dhia Isad said that the Petitioners tested the Population Administration Law based on the protection of religious values in Indonesia, the principle of marriage, and family resilience.

According to Emir, this article implies that the state is obliged to make all forms of laws and regulations or carry out policies for the implementation of a sense of faith in God Almighty. The 1945 Constitution does not separate religion from the state and freedom of religion is guaranteed by the state. Emir further stated, in the "Opinion of the Court" section of Decision Number 140/PUU-VII/2009, it was stated that belief in God Almighty is the domain of the forum internum which is a consequence of accepting Pancasila as the basis of the state. Any propaganda that furthers distances citizens from Pancasila cannot be accepted by good citizens.

In addition, the Constitutional Court stated "The principle of the rule of law of Indonesia must be seen through the perspective of the 1945 Constitution, namely a state law that places the principle of the One and Only God as the main principle, as well as religious values that underlie the movement of the life of the nation and state, not a state that separates the relationship between religion and the state (separation of state and religion), and not solely adhering to the principles of individualism or communalism".

Based on the philosophy described above, the Petitioners believe that the need to base all legislation on a basic moral concept based on the values of Belief in the One and Only God is a necessity in the structure of the Republic of Indonesia which cannot be negotiated on any basis. . Therefore, there is no other need to maintain the Elucidation of the Article a quo other than the reaffirmation of religious values as one of the guidelines for social life as contained in the positive law of the country. Based on the description above, interfaith marriages have legal consequences because marriages of different religions are not valid according to each religion so they are also invalid according to Law Number 1 of 1974 Jo Law Number 16 of 2019 concerning Marriage.

"The existence of an illegal marriage can have consequences for the status and position of the child. Based on Article 42 of the Law a quo, a legitimate child is a child born in or as a result of a legal marriage. Because the marriage of both parents is illegal according to religious law or the law of marriage, children born from marriages of different religions are illegitimate children or children out of wedlock," explained Syukrian.

Therefore, the Petitioners in the petitum asked the Constitutional Court to declare that the Explanation of Article 35 of the Population Administration Law was contrary to the 1945 Constitution. (Utami Argawati/Nur R.)

JUDICIAL REVIEW OF THE RETIREMENT AGE OF THE CONSTITUTIONAL COURT'S REGISTRAR AND JUNIOR REGISTRAR

THE CONSTITUTIONAL Court (MK) held a hearing to review the Law of the Republic of Indonesia Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court (UU MK) on Monday (7/25/2022) in the Plenary Session Room of the MK. The petition for Case Number 72/PUU-XX/2022 of the Constitutional Court Law was submitted by Zainal Arifin Hoesein, Fardiaz Muhammad, and Resti Fujianti Paujiah.

Heru Widodo as the attorney for the Petitioners in court stated that Zainal Arifin Hoesein was the Court Registrar for the 2009-2011 period. Zainal had to retire with a retirement age of 56 years due to the unclear setting of the Registrar's retirement age. Furthermore, Fardiaz Muhammad is currently working in a lawyer's office. Meanwhile, Resti Fujianti Paujiah is a graduate of the Indonesian Litigation College. Fardiaz and Resti have the potential to become State Civil Apparatus (ASN) at the Court's Registrar's Office, then pursue a career as a Registrar at the Constitutional Court. Heru explained that on September 3, 2010, Zainal was even 56 years old. However, Zainal has to retire as a civil servant and immediately also has to stop being the Registrar of the Constitutional Court.

The registrar of the Constitutional Court is one of the elements of the leadership of the supporting unit at the Constitutional Court who is assisted by a junior registrar/clerk with one of the terms of office having occupied the position of junior clerk and/or substitute registrar for the main expert so that the retirement age limit is determined based on the provisions of the applicable laws, namely 65 years for registrar, Junior registrar, and the main expert substitution registrar. Then the retirement age limit is 62 years for middle and young expert replacement registrars, and 60 years for first expert replacement registrars.

"Concerning various provisions on the retirement age limit for functional registrar's positions in the Supreme Court, high courts and functional expertise positions, determining the age of clerks, junior registrar and substitute registrar for the main expert is very appropriate because the age setting referred to is regulated in the legislation. Civil servant career paths in Law 5/2014, there is a change in the Civil servant career path arrangement which divides positions into functional positions, namely expertise and skills. The Registrar's Office of the Constitutional Court is a functional expertise position, in which the functional expertise positions consist of primary experts, middle experts, junior experts, and first experts," explained Heru. In their Petitum, the Petitioners asked the Constitutional Court to declare Article 7A paragraph (1) of the Constitutional Court Law is not contradictory to the 1945 Constitution as long as it is interpreted as follows: "Registry as referred to in Article 7 is a functional position that carries out technical administrative duties of the Constitutional Court led by a Registrar with a position equivalent to the position of junior high leadership (echelon IA) assisted by a Junior Registrar with a position equivalent to the first high leadership position (echelon IIA) and the main Expert Alternate Registrar, each with a retirement age of 65 (sixty five years) for Registrars, Junior Registrars, and Alternate Registrars of main experts, and 62 (sixty-two) years for the Substitute Registrar of Associate experts, and the Substitute Registrar for Junior and First Experts; as well as assisted by functional positions of other expertise in the technical field of judicial administration and a secretariat of the Registrar's Office. (Utami Argawati/ Nur R.)

FIVE HOMEWORKERS REVIEWING LABOR LAW

FIVE homeworkers conducted a judicial review of Law Number 13 of 2003 concerning Manpower (Labor Law) on Monday (8/1/2022). They are Muhayati (Petitioner I), Een Sunarsih (Petitioner II), Dewiyah (Petitioner III) who lives in Jakarta, and Kurniyah (Petitioner IV), Sumini (Petitioner V) who lives in Cirebon. The Petitioners examined Article 1 point 15 and Article 50 of the Manpower Law which regulates the definition of employment relations.

The Petitioners of Case Number 75/PUU-XX/2022 are homeworkers who individually work at home or are not in the company environment. However, they receive a work order from an intermediary as an employer to carry out a job in the form of a product/ service. Regarding the type of work of the five Petitioners, for example, Petitioner I has been a homeworker since 2004 who received work orders verbally from an individual who acted as an intermediary for sewing baby gloves and socks.

Meanwhile, Petitioner II has been a homeworker since 2011 who received a work order from an individual who acted as an intermediary for making fried chicken ready-to-eat food packaging. Petitioner III has been a homeworker since 2006 who acts as an intermediary who claims to be a factory employee. The product produced by Petitioner III is in the form of footwear whose materials are provided by intermediaries. Moreover, Petitioner IV and Petitioner V have been homeworkers since 2012 who received work orders verbally from an individual who acts as an intermediary for making products made of rattan such as tables, chairs, and other rattan matting.

In 2017, Wilopo explained, the Petitioners once held an audience with the Ministry of Manpower to question the legal protection status of homeworkers as workers and the status of their employment relationship under the Labor Law. However, the Ministry of Manpower responded that there was no term homeworker in the Labor Law. Referring to the definition of workers in the Manpower Law, homeworkers can be categorized as workers. However, homeworkers are considered workers who are outside the employment relationship.

Hence, in their petitum, the Petitioners requested that the Panel of Judges grant the Petitioners' petition in its entirety. In addition, the Petitioner requests that the Court declare that Article 1 point 15 of the Labor Law is contradictory to the 1945 Constitution and does not have binding legal force as long as it does not mean "An employment relationship is a relationship between an employer and a worker/laborer which has elements of work, wages and orders". "Declaring Article 50 of the Manpower Act on Employment is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force as long as it does not mean "Work relations occur because of an employment agreement between the employer and worker/ laborer," said Wilopo. (Nano Tresna Arfana/ Lulu Anjarsari P.)

THE LEGIBILITY OF THE BUSINESS COMPETITION SUPERVISORY COMMISSION SECRETARIAT IS QUESTIONED

THE CONSTITUTIONAL Court (MK) held a hearing for a judicial review of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (LPMPUTS Law) as amended by Law Number 11 of 2020 concerning Job Creation (Job Creation Law) on Wednesday (10/8/2022) with a preliminary examination agenda. This application, which was registered Number 76/PUU-XX/2022, was filed by Barid Effendi (Petitioner I) and Dedy Sani Ardi (Petitioner II). Barid and Dedy examined Article 34 paragraph (4) of the LPMPUTS Law.

The hearing was chaired by Constitutional Justice Wahiduddin Adams accompanied by Constitutional Justice Saldi Isra and Constitutional Justice Suhartoyo. Barid revealed in court that he was a retired Civil Servant (PNS) employed at the secretariat of the Business Competition Supervisory Commission (KPPU) with the position of Head of the Administrative Bureau, and finally as expert staff in the field of institutions and cooperation, a total of 10 (ten) years moreover, cannot obtain their rights (rank and financial rights) like civil servants in other state institutions with the position of Head of Bureau. This occurred because the structural position of the KPPU secretariat was not recognized by the government.

Meanwhile, Dedy Sani Ardi worked as an employee of the Business Competition Supervisory Commission (KPPU) secretariat started his career in 2001 as an administrative staff until October 1, 2019, with his last position as Expert Staff of the Economic Commission. Dedy was greatly disadvantaged by the lack of legal certainty for the governance of the KPPU secretariat which had implications for the absence of legal status for his position and career so he decided to resign from the KPPU and change professions as an entrepreneur. As an entrepreneur, this is felt because the presence of KPPU and its secretariat which has legal legitimacy is urgently needed. Thus, KPPU is able to carry out its duties and authorities and can respond to the demands and challenges of the times with increasingly complex competition dynamics to guarantee the creation of a fair and competitive business climate opportunities can be realized.

Barid further said that the provisions of Article 34 paragraph (4) of the LPMPUTS Law are contrary to the 1945 Constitution because constitutionally, the authority to regulate the organizational structure, tasks, and functions of the secretariat and working group is a governmental authority that only belongs to the President as stipulated in Article 4 paragraph (1)) of the 1945 Constitution. Therefore, the provision for delegation of authority in Article 34 paragraph (4) of the LPMPUTS Law also contradicts Article 1 paragraph (3) of the 1945 Constitution because it is not following the law-based state government mandate.

According to him, in Article 34 of the LPMPUTS Law, there is clearly no mandate for the President to regulate the KPPU secretariat. The legal facts that occurred later were that the formulation of these two paragraphs was reaffirmed in Article 12 of Presidential Decree Number 75 of 1999 concerning the Commission for the Supervision of Business Competition (Keppres 75/1999), as amended by Presidential Regulation Number 80 of 2008 (Perpres 80/2008), and has been used as a legal basis in organizational governance and staffing of the KPPU secretariat from its inception to the present.

In the petitum, the Petitioners asked the Constitutional Court to state that the norm of Article 34 paragraph (4) of Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition (State Gazette of the Republic of Indonesia of 1999 Number 33, Supplement to State Gazette Number 3817) is contrary to the Law The 1945 Constitution of the Republic of Indonesia and does not have binding legal force. (Utami Argawati/ Nur R.)

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ISBN : 978-602-7995-24-4
Terbit : 2019
Ukuran : 14,8 x 21 cm
Tebal : 222 hlm

Harga : Rp74.000

Hukum Acara Sengketa Pemilukada Dinamika di Mahkamah Konstitusi

Penulis : Dr. Hasi Wakda, S.H., M. Hum.
ISBN : 978-602-7995-18-9
Terbit : 2018
Tebal : 368
Ukuran : 14,8 x 21 cm

Harga : Rp95.000

Berhukum di Indonesia

Penulis : Dr. Tundjung Herning Sitabuana, S.H., C.N., M.Hum.
ISBN : 978-602-7995-17-8
Terbit : 2017
Tebal : 312 hlm
Ukuran : 15 x 23 cm

Harga : Rp83.000

Bung Karno, Islam, dan Pancasila

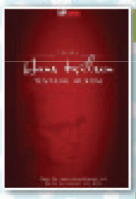
Penulis : Dr. Ahmad Basarah
ISBN : 9786027995161
Terbit : Cetakan ke-1, Juni 2017
Tebal : 250 hlm
Ukuran : 14,0 x 21 cm

Harga : Rp54.000

Mengawal Konstitusionalisme

Penulis : Hamdan Zoelva
ISBN : 9786027995147
Terbit : Cetakan ke-1, Juli 2016
Tebal : 333 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp60.000



Teori [illegible] tentang Hukum

Penulis : Prof. Dr. Jimly Asshiddiqie, S.H. dan Dr. M. Ali Safaat, S.H., M.H.
ISBN : 978-979-99999-4-1
Terbit : Cetakan Pertama, Juli 2012
Tebal : 186 halaman
Ukuran : 15 x 22 cm

Harga : Rp50.000

Konsep Hukum [illegible]

Penulis : Dr. M. Ali Safaat
ISBN : 9786027995154
Terbit : Cetakan ke-2, Agustus 2016
Tebal : 231 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp60.000

Pergulatan Konstitusi Hamdan

Penulis : Rita Triana Budiarti
ISBN : 9786027995130
Terbit : Cetakan ke-1, Januari 2015
Tebal : 256 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp65.000

Pergeseran Pemikiran Hukum dari Era Yunani Menuju Postmodernisme

Penulis : Prof. Dr. Ps. Adji Samekto, S.H., M.Hum
ISBN : 9786027995239
Terbit : Cetakan ke-1, Februari 2015
Tebal : 250 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp45.000

Impeachment Presiden

Alasan Timbul Pikiran Pembentukan Pemberhentian Presiden Menurut UUD 1945

Penulis : Hamdan Zoelva
ISBN : 978-602-7995-08-6
Terbit : Cetakan ke-1, 2014
Tebal : 310 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp60.000

Perkembangan Pembentukan Undang-Undang di Indonesia

Penulis : Dr. Bayu Dwi Anggono, SH, MH
ISBN : 9786027995603
Terbit : Cetakan ke-1, Agustus 2014
Tebal : 384 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp65.000

Penyelesaian Masalah Diskriminasi Terhadap Etnis Cina

Penulis : Dr. Tundjung Herning Sitabuana, S.H., C.N., M. Hum.
ISBN : 9786027995559
Terbit : Cetakan ke-1, Desember 2014
Tebal : 332 hlm
Ukuran : 15,5 x 23 cm

Harga : Rp90.000

Kontroversi Mahfud MD Jilid 1

Penulis : Rita Triana Budiarti
ISBN : 978-602-18834-3-0
Terbit : Cetakan Pertama, Desember 2012
Tebal : 270 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp55.000

Kontroversi Mahfud MD Jilid 2

Penulis : Rita Triana Budiarti
ISBN : 978-602-18834-4-7
Terbit : Cetakan ke-1, Juli 2014
Tebal : 312 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp59.000

Biografi Mahfud MD: Terus Mengalir

ISBN : 978-602-18834-8-5
Penulis : Rita Triana Budiarti
Terbit : Cetakan Pertama, Maret 2013
Halaman: 412 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp80.000

Politik Hukum Agraria

Penulis : Prof. Adrian Sutedi, SH
ISBN : 9786027995504
Terbit : Cetakan Pertama, Juli 2014
Tebal : 348 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp58.500

Hukum Pemilu dalam Yurisprudensi Mahkamah Konstitusi

Penulis : Janedjri M. Gaffar
ISBN : 978-602-7995-05-8
Terbit : Cetakan ke-1, 2014
Tebal : 264 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp48.000

Demokrasi dan Pemilu di Indonesia

Penulis : Janedjri M. Gaffar
ISBN : 978-602-7995-03-4
Terbit : Cetakan ke-1, 2014
Tebal : 312 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp45.000

Demokrasi Konstitusional Praktik Ketatanegaraan Indonesia setelah Perubahan UUD 1945

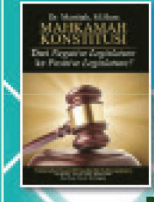
ISBN : 978-602-18834-1-6
Terbit : Cetakan Pertama, Oktober 2012
Tebal : 280 hlm
Ukuran : 14 x 21,5 cm

Harga : Rp49.000

Politik Hukum Pemilu

Penulis : Janedjri M. Gaffar
ISBN : 9786028963420
Terbit : Cetakan Pertama, Oktober 2012
Tebal : 312 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp53.000



Mahkamah Konstitusi, dari Negative Legislature ke Positive Legislature

Penulis : Dr. Harrison
ISBN : 9786028963887
Terbit : Cetakan Pertama, Agustus 2013
Tebal : 342 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp57.000

Pembentukan Peraturan Perundang-Undangan yang Responsif

Penulis : Ahmad Yani, SH, MH
ISBN : 978-602-7995-02-1
Terbit : Cetakan ke-1, September 2013
Tebal : 404 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp55.000

Politik Hukum Pembentukan Undang-Undang Pasca Amandemen UUD 1945

Penulis : Dr. Fatkhan Sahnan
ISBN : 978-602-18834-0-9
Terbit : Cetakan Pertama, Oktober 2012
Tebal : 630 hlm
Ukuran : 15 x 22 cm

Harga : Rp72.500

Reformasi Birokrasi dan Isu-isu Investasi

Penulis : Taufik Effendi
ISBN : 978-602-18834-7-8
Terbit : Februari 2013
Tebal : 338 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp59.000

Mahfud MD: Hakim Aktivis

Penulis : Jeryanto
ISBN : 978-602-7995-09-5
Terbit : Cetakan Pertama, Maret 2013
Tebal : 420 hlm
Ukuran : 14,8 x 21 cm

Harga : Rp71.500

Untuk pemesanan hubungi:
KOPERASI KONSTITUSI
Jl. Medan Merdeka Barat No. 6 Jakarta Pusat
Telp. (021) 23529000,
Email: penerbitkonpress@gmail.com, Fb: epenerbit.konpress, Twitter: @konpress

MAHKAMAH KONSTITUSI
REPUBLIK INDONESIA

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Bambang Soesatyo
Chairman of the People's Consultative Assembly

"Happy 19th anniversary to the Constitutional Court of the Republic of Indonesia. I pray that the Constitutional Court of the Republic of Indonesia will always be firm in its efforts to guard the Constitution and democracy in dynamics in the life of our nation and state. I believe, with hope, that the higher the public, the Constitutional Court of the Republic of Indonesia will succeed in answering every national challenge through the integrity of the Constitutional court which is strong, the quality of decisions which demonstrate justice and is successful and manifests itself as a court institution guarding the Constitution which is modern, trusted and loved by all Indonesian people."

HM Syarifuddin
Chief Justice of the Supreme Court

"Happy 19th anniversary to the Constitutional Court of the Republic of Indonesia on August 13, 2022. Hopefully, on the 19th, the Constitutional Court will be more upright in guarding the Constitution and strong in maintaining democracy."

Isma Yatun
Chairperson of the Audit Board of the Republic of Indonesia

"Happy 19th anniversary to the Constitutional Court of the Republic of Indonesia. Hopefully, the Constitutional Court as a political court and state high institution can elevate the muruah of the Constitution by prioritizing integrity through efforts to uphold the law in a dignified manner."

Mukti Fajar Nur Dewata
Chairman of the Judicial Commission

"On behalf of the Judicial Commission Family, we wish the 19th Anniversary of the Constitutional Court of the Republic of Indonesia. Hopefully, in the future, the Constitutional Court will always be able to realize its function in upholding the principle of legal constitutionality. Long live the Constitutional Court!"

Aa Lanyalla Mahfud Mattaliiti
Chairman of Regional Representative Council

"Happy 19th anniversary to the Constitutional Court of the Republic of Indonesia. The dynamics that occur in this nation are developing very rapidly. Changes also occurred in all lines, including the nation's Constitution. In this condition, the Constitutional Court must appear as an institution that oversees the direction of the nation's journey so that it does not deviate from the track set by the nation's founding fathers. The Constitutional Court must strengthen its role in guarding the Constitution and democracy. Thus, this nation grows into a strong nation that is not easily divided."

M. Mahfud MD

Coordinating Minister for Political, Legal, and Security Affairs

"With joy, pride and gratitude, we wish the Constitutional Court a happy 19th anniversary. For nearly two decades, the Constitutional Court has dedicated itself and its judges with full dedication to safeguarding the upholding of the Constitution and at the same time safeguarding a democratic Indonesia. Once again, happy 19th anniversary the Constitutional Court!"

Yasona H. Laoly

Minister of Law and Human Rights

"I wish a happy 19th anniversary of the Constitutional Court of the Republic of Indonesia. Hopefully, the Constitutional Court of the Republic of Indonesia can continue to uphold the Constitution and democracy through a modern and reliable judiciary, continue to strengthen the Constitutional court, and raise awareness of the constitutionality of citizens and state administrators."

Erick Thohir

Minister of State-Owned Enterprises

"Representing the Ministry of State-Owned Enterprises, I wish the 19th Anniversary to the Constitutional Court of the Republic of Indonesia. May the Constitutional Court always be given strength by God Almighty, Allah SWT to carry out the mandate in guarding the Constitution and democracy in Indonesia."

Sandiaga Salahuddin Uno

Minister of Tourism and Creative Economy

In this increasing age this year, hopefully in the future the Constitutional Court will continue to play an active role in guarding the Constitution and democracy in Indonesia. Hopefully, the Constitutional Court and other sectors can work together in advancing tourism and the Indonesian economy.

Listyo Sigit Prabowo

National Police Chief

"As a state institution whose role is to oversee and protect the Constitution, the Constitutional Court is constantly transforming in administering justice in order to realize certainty, justice, and benefit for the future of the nation and state. Happy 19th-anniversary Constitutional Court".

MAHKAMAH KONSTITUSI
REPUBLIK INDONESIA

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HAPPY ANNIVERSARY CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA

Constitutional Court is 19 years old, What are they saying?

On August 13, 2022, it will be exactly the 19th year that the Constitutional Court (MK) has run constitutional authority, as written in Article 24C paragraph (1) of the 1945 Constitution. Quoting the remarks of the Secretary General of the Constitutional Court M. Guntur Hamzah at the MK tasyakuran event on Saturday (8/13/2020), the MK is like shipping so far sailing along the vast ocean towards its final destination with various challenges. Entering waves and big waves and being hit by storms, it's not uncommon to encounter calm seas and rainbow sunsets. After 19 years of operation, how familiar are the people with MK? Let's see what they say!

COURT

"The MK is a court. I know MK because some people like to ask where the MK is building."

(Zumhari, Recruitment staff of Individual Service Providers)

HIGHEST PLACE TO COMPLAIN

"The MK is the highest complaint place in Indonesia, such as complaints about Ferdy Sambo's problem, and relocation of the national capital, and I find it funny just to see the policy, how come it's fast."

(Meri Effendi, Security Guard)

DECIDED THE MEETING OF MEMBERS OF THE BOARD

"About MK, I only know the office, but maybe it's the MK's job to decide on the meeting of the members of the council."

(Zahra A., Customer Service)

MK MUST REMAIN CLEAN

"I first knew the Constitutional Court from the media and became more familiar with the presidential election lawsuit because of the intense media coverage and finally got to know some of the Constitutional Court judges as a result of the lectures I took at FHUI. MK continues to improve day by day to provide the best role for the republic. This needs to be appreciated because as a relatively young institution, the Constitutional Court continues to adapt well and maintain good morale even though challenges come and go. In the future, I hope that the Constitutional Court will continue to maintain its mandate as the front guard guarding the constitution. Ahead of the Simultaneous Regional Head Election, of course, many preparations must be made because there are usually more and more lawsuits. Hopefully the Constitutional Court and all ranks, from the judges of the Constitutional Court to the lowest staff, remain 'clean'.

(Brigita Manohara, A Journalist)

INTERESTS OF THE PEOPLE

"The Constitutional Court is a State Higher Institution formed after the reform which has the function of examining legal products in the form of a judicial review. In the future, the Constitutional Court in its decisions will favor the interests of many people rather than the interests of elites.

(Bima Prasetya, A Freelancer)

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SOCIALIZATION ABOUT MK IS NECESSARY

"The MK is a state institution that examines laws, regional election disputes, and appeals. I understand the news on TV. I don't understand the profile right away. The hope is that as citizens, there will be more socialization regarding what the Constitutional Court is and what its role is. The Constitutional Court needs further outreach because we don't understand the legal route to take if we go to the Constitutional Court."

(Prima Shinta, Assistant for People with Disabilities, Ministry of Social Affairs)

CHIEF OF THE CONSTITUTIONAL COURT MARRIED JOKOWI'S SISTER

"The Constitutional Court is a high state institution and the judges are selected from the President, House of Representatives, and Supreme Court. The Constitutional Court examines laws, election disputes, or the dissolution of political parties. During these 19 years, I don't understand the Constitutional Court as a society. What I do understand is the Chief Justice of the Constitutional Court married Jokowi's sister. The hope is that the Constitutional Court is the highest state institution that should be widely known by the public. Socialization must be increased, not only among civic teachers, only law students, even though many people can be targeted. So, outreach to modern circles and Gen Z who understand social media must be increased again."

(Puput Nurmawarni, A Housewife)

REACHING REMOTE AREAS OF THE COUNTRY

"The MK is an institution IN adjudicating government institutions, including election disputes. The hope is that in the future, the Constitutional Court will be able to reach out more about cases or disputes in various parts of the country."

(Annisa Rahmania, Writer)

CONSTITUTIONAL SUPREMACY

"The Court must carry out a judicial review submitted by the community with a specific purpose. The question is if the law is not following the values of the constitution or the 1945 Constitution. The MK's job is to correct it, with the final result being able to give the decision to accept, reject or accept conditionally. Constitutional Court (MK) has a special task in the field of law or as the supremacy of the constitution. At the age of 19, the Constitutional Court can truly be independent and carry out its duties without political intervention. Don't let the Constitutional Court get involved in certain political interests that are inconsistent with the principles of reform, democracy, and the constitution."

(Agil Kurniadi, A Researcher of Terekam Jejak)

THE IDENTITY OF NATION

"The Constitutional Court is a state institution that must adjudicate or accept appeals from the people, which can be in the form of commercial and non-commercial institutions or individuals who are dissatisfied with the output of laws or regulations or laws made by the House of Representatives or the Government. My hope is for anyone who serves at the Constitutional Court, especially judges or people who have an interest in deciding a case within it, to adhere to Pancasila, religious norms, norms that apply in society, hold on to national identity, and side with the people as much as possible."

(Dhini Afiatanti, A Lecturer in the Japanese Study Program, University of Indonesia)

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BIG RESPOSIBILITY

The Constitutional Court is a high state institution as a judicial power actor which includes examining laws, disputes over the authority of state institutions, dissolving political parties, and disputes over election results. The obligations and authorities that belong to this high level are a big responsibility for the Constitutional Court to carry out. The hope is that with the social and political dynamics in Indonesia, the role of the Constitutional Court will receive more attention in upholding law and justice. What's more, welcoming the 2024 Election, we hope that the Constitutional Court's performance will improve and contribute to supporting Indonesia's conditions to become more conducive ahead of the 2024 Election.

(Handrito Danar Prabowo, A National Museum's First Expert Culture Officer)

PRIORITIZE JUSTICE AND HONESTY

"The Constitutional Court is one of the high state institutions whose one of its duties is to seek justice for participants or parties during elections. The Constitutional Court must always prioritize justice and honesty because the Constitutional Court's decisions can have an impact on many people or society."

(Satrio AB, A Graphic Designer)

THE LAST HOME

"The Constitutional Court is an honorable institution and a place of pride that can protect every constitutional right of its citizens. As religious leaders, we hope that they build credibility and dedication that cannot be intervened by any party because the Constitutional Court is the last home for Indonesian citizens to apply for their rights. In the future, the Constitutional Court will be even more victorious and able to provide the values of justice for the Indonesian people and anyone in it can have a clean soul and be able to create justice."

(Habib Ali Zainal Abidin Bin Musthofa Al Athas, A Chairperson of Rabitha Alawin, Depok, and Trustees of the Alawin Troops)

VULNERABLE OF POLITICAL FLOWS

"The Constitutional Court (MK) is a state institution that holds judicial power together with the Supreme Court to oversee the enforcement of the constitution. I hope that the process of Selecting the Judges can be separated from the House of Representatives and the President because they are vulnerable to being carried away by political currents. In addition, the appointment of constitutional judges from the House of Representatives and the President can make the judicial power of the MK be influenced by the branches of power of the House of Representatives and the President. I think the submission from the Supreme Court should be sufficient."

(Sigit Jaya H., An Editor)

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UNKNOWN TO THE COMMUNITY

"The Constitutional Court (MK) has to make decisions related to allegations of violations committed by the President or Vice President according to the 1945 Constitution on the opinion of the House of Representatives. So far, many people don't know about MK, but more people know/understand about Supreme Court, so it seems that MK needs something to make people more familiar with it."

(Yulaili Taufan, An Employee)

THE AUTHORITY OF MK IS UNFAMILIAR

"The Constitutional Court (MK) is the highest in the Indonesian court structure, which is the highest institution for judges. Specifically, I am unfamiliar with the main duties and functions, and powers of the Constitutional Court. But generally, the Constitutional Court is related to the judiciary. It is felt that the Constitutional Court is currently not optimal in being part of realizing legal justice. It is expected that in the future, the Constitutional Court can be more pro-justice, regardless of status, position in exercising its authority."

(Rizky Syaifudin, Graphic Designer)

ENFORCEMENT OF JUSTICE

Constitutional Court (MK) is a high legal institution. In the future, the Constitutional Court can become a constitutional institution that is truly independent and upholds justice for all Indonesian people."

(Zulfadli, An Entrepreneur)

UDICIAL POWER HOLDERS

"The Constitutional Court (MK) is a state institution that holds judicial power. The hope is that at the age of 19 and in the future, MK's judges can become fair adjudicators for all court disputes at the MK, away from arbitrariness, Corruption collusion nepotism, and security in their work.

(Eka Widayati, A Regional Education Officer IUF Asia Pacific)

THE LAST GUARDIAN OF THE CONSTITUTION

"The Constitutional Court (MK) is a high institution that functions as a law examiner. They are the institutions that can determine whether a law is contrary to the 1945 Constitution or not, both from the process and substance. The Constitutional Court becomes the final guardian of the constitution in Indonesia. As for my hope, the Constitutional Court will remain a high state institution that issues decisions independently, is free from any political influence, is strong from the pull of the regime's family, and is not subject to economic interests.

(Hendaru Tri Hanggoro, Journalist)

INDEPENDENT INSTITUTION

"The Constitutional Court (MK) is the country's highest judicial institution which is the place for resolving various disputes. My hope for the Constitutional Court is that it will become an independent institution and far from playing dirty politics. Thus, being able to provide the fairest decisions for the community and become an arbiter in the state justice system."

(Livya Chairunnisa Ahdiati, Civil Servant of BSKAP Kemendikbudristek)

Constitutional Justices Discussing Pancasila Ideology and Advocate Professionalism

Constitutional justices visited online and offline discussion rooms to meet students and law practitioners to share experiences.

The Role of the State in the Social Media Development

Constitutional Justice Arief Hidayat in a public lecture entitled "Pancasila Ideology in the Era of Technological Disruption", on Friday (7/22/2022) at Padang State University (UNP), Padang.

The Authority of the Constitutional Court to Advocates

Chief Justice of the Constitutional Court (MK) Anwar Usman became a speaker at the Advocate Profession Special Education Batch XIII which was held in collaboration with the Faculty of Law, Widyagama University Malang with the Peradi National Leadership Council (DPN), on Saturday (723/2022).

Constitutional Design of Law Development in the Regions

Constitutional Justice Enny Nurbaningsih became the guest speaker for the Public Discussion on the Preparation of the National Law Development Document: "Legal Development in the Regions" in 2022. This event was organized by the Center for Analysis and Evaluation of National Law of the National Legal Development Agency (BPHN) on Friday (7/29/2022) at Hotel JW Mariott Surabaya.

Technology Generates Challenges and Threats to the Unity of the Nation

Constitutional Justice Arief Hidayat at the Public Lecture at the Beginning of Odd Semester for Cadets Batch II, II, IV, 2022 Academic Year which was held by the Police Academy on Monday (8/1/2022) at the Cendrawasih Auditorium Cendekia Building, Semarang.

The State Can Monitor Social Media

Constitutional Justice Arief Hidayat became a speaker in a public lecture entitled "The Role of the Constitutional Court in Maintaining the Sovereignty of Constitutional Law and the Aspirations of the People". This event was held at Mahasaraswati University (UNMAS), Denpasar, Bali, on Friday (8/5/2022) morning.

Procedural Law of the Constitutional Court

Constitutional Justice Daniel Yusmic P. Foekh gave material regarding "The Law of the Constitutional Court" at the Advocate Profession Special Education (PKPA) at Pelita Harapan University, Medan, North Sumatra, Saturday (8/6/2022) online.

The judge in Law Enforcement and Justice

Constitutional Justice Suhartoyo was the key speaker at the Legal Profession Workshop organized by the Student Executive Board of the Faculty of Law, University of Mataram with the theme "Preparing Young Practitioners To Compete" online on Tuesday (6/28/2022). On this occasion, Suhartoyo conveyed the duties of a constitutional judge in his legal role at the Constitutional Court.

Indonesian People Learn from the Example of "The Founding Fathers"

Constitutional Justice Arief Hidayat was the guest speaker for the National Seminar "Safeguarding the Unitary State of the Republic of Indonesia Based on Pancasila: Examples from The Founding Fathers" which was held by the Indonesian Hindu University (UNHI) Denpasar on Saturday (8/6/2022).

Advocates Must Master All Procedural Laws

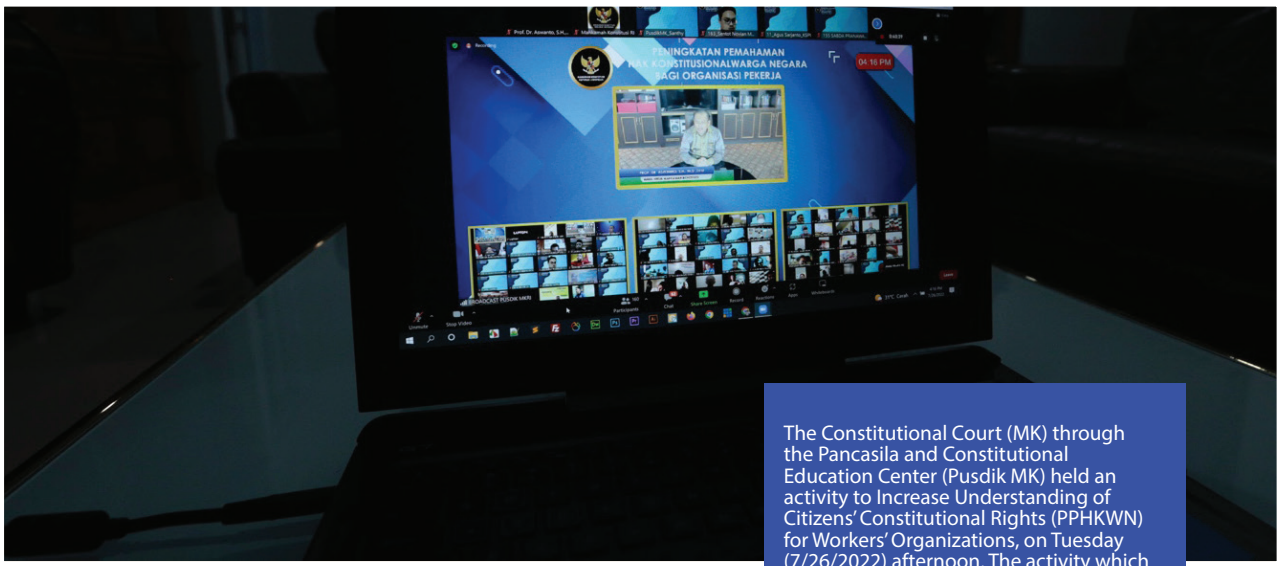
Constitutional Justice Suhartoyo explained the Constitutional Court's Procedure Law on Advocate Profession Special Education Class XIX which was held by DPC Peradi West Jakarta in collaboration with Bhayangkara University Jakarta Raya (Ubhara Jaya) on Saturday (8/6/2022).

Unisma Bekasi Students Learned the Constitutional Court Procedural Law

Constitutional Justice Suhartoyo became a keynote speaker for Advocate Profession Special Education (PKPA) for students of Islamic University 45 (Unisma) Bekasi on Saturday (8/13/2022). The activity entitled "Proceedings at the Constitutional Court" is a collaboration between Peradi and the Unisma Bekasi Faculty of Religion.

Advocates and work organizations learned about procedural law and constitutional rights

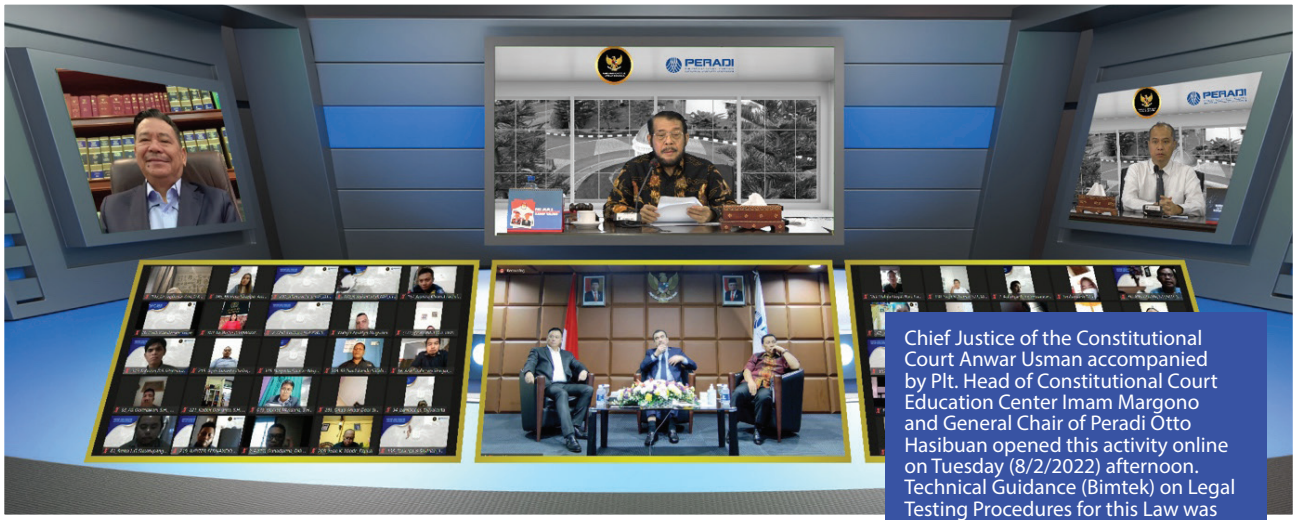
In July and August 2020, the Pancasila and Constitutional Education Center of the Constitutional Court invited advocates, work organizations, and ... to understand the Constitutional Court's procedural law and various matters related to citizens' constitutional rights. The judges, substitute clerks, and experienced legal practitioners shared their knowledge and stories with the technical assistance participants. The following is a portrait of the excitement of the technical guidance participants in the online discussion room.



The Constitutional Court (MK) through the Pancasila and Constitutional Education Center (Pusdik MK) held an activity to Increase Understanding of Citizens' Constitutional Rights (PPHKWN) for Workers' Organizations, on Tuesday (7/26/2022) afternoon. The activity which was held online was opened by the Deputy Chief Justice of the Constitutional Court Aswanto and attended by the Minister of Manpower Ida Fauziah.

On the second day of the Increasing Understanding of Citizens' Constitutional Rights (PPHKWN) activities for Workers' Organizations on Wednesday (7/27/2022), several speakers were present, Yudi Latief (Former Head of BPIP) with material Re-actualization of the Implementation of Pancasila Values, I Dewa Gede Palguna (Constitutional Judge for the 2015 – 2020 period) with material on Constitution and Constitutionalism, Ni'matul Huda (Lecturer of Law at the Indonesian Islamic University) with material on the System Administration of the State based on the 1945 Constitution of the Republic of Indonesia and Khairul Fahmi (Lecturer in Constitutional Law, Faculty of Law, Andalas University) with the material Guaranteeing Citizens' Constitutional Rights according to the 1945 Constitution of the Republic of Indonesia.

Invite The Hellenic Council of State to Join WCCJ



Chief Justice of the Constitutional Court Anwar Usman accompanied by Plt. Head of Constitutional Court Education Center Imam Margono and General Chair of Peradi Otto Hasibuan opened this activity online on Tuesday (8/2/2022) afternoon. Technical Guidance (Bimtek) on Legal Testing Procedures for this Law was attended by 400 advocates who were also administrators and the Indonesian Advocates Association (Peradi) organized by the Pancasila and Constitutional Education Center (Pusdik MK).

Deputy Chief Justice of the Constitutional Court Aswanto through the Pancasila and Constitutional Education Center (Pusdik) held Technical Guidance for the Indonesian Legal Aid Foundation (YLBHI) and Networking Organizations online on Tuesday (8/9/2022) afternoon.

Audience and Gathering

In exercising institutional authority, the Constitutional Court always synergizes with institutions.

Constitutional Court- General Election Commissions Coordinates Governance for the 2024 Election and Regional Head Election

The Heads of General Election Commissions (KPU) Leaders of the Republic of Indonesia held an audience with the Constitutional Court (MK) on Tuesday (7/26/2022). Present on the occasion was KPU chairman Hasyim Asy'ari, General Election Commissions members Mochammad Afifuddin, Yulianto Sudrajat, and others. The arrival of the General Election Commissions members was received directly by Chief Justice Anwar Usman, Deputy Chief Justice Aswanto, Constitutional Justice Arief Hidayat, and Secretary General of the Constitutional Court M. Guntur Hamzah on the 15th floor of the Constitutional Court Building.

Implementation of the MUI Fatwa in Laws and Regulations

Constitutional Justice Wahiduddin Adams at the 6th Annual Conference on Fatwa Studies (ACFS) in the framework of the 47th Anniversary of the MUI which was held by the MUI Fatwa Commission on Wednesday (7/27/2022) at the Sultan Hotel, Jakarta With the theme "The Role of MUI Fatwas in Social Change", Wahiduddin delivered a presentation on the theme "Some Notes on MUI Fatwas, Taqnin and National Law Reform (Perspective of Legislation).

PERLINDUNGAN TERHADAP SAKSI DAN KORBAN

DR. WILMA SILALAHI, S.H., M.H.

Substitute Registrar of the Constitutional Court of the Republic of Indonesia and Lecturer at the Faculty of Law, Tarumanegara University, Jakarta

BOOK TITLE: PERLINDUNGAN TERHADAP SAKSI DAN KORBAN

AUTHOR: NATIONAL COMMISSION ON VIOLENCE AGAINST WOMEN

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The book entitled " Perlindungan Terhadap Saksi dan Korban (Protection of Witnesses and Victims)" is a form of contribution and dissemination of the concept of witness and victim protection, especially from the perspective of women victims and in the framework of fulfilling victims' rights to truth, justice, and remedy. In reality, the position of witnesses and victims is vulnerable to terror and intimidation, unprotected by law and isolated from the wider community. This is one of the reasons why witnesses and victims tend not to want to talk because their public position can place them as "second-time victims" because of the disclosure of events that they experienced, heard, or knew about.

The forms of societal demands that emerged during the transitional period can be seen, as follows: (1) demands for accountability from the perpetrators, both perpetrators of crimes against humanity, violations of human rights (HAM), practices of collusion, corruption, and nepotism (KKN), as well as abuse of power what happened in the past or what is still being conducted during this transitional period; (2) demands handling cases of gender-based violence such as sexual violence, forced prostitution, forced pregnancy, and domestic violence. These cases appear in everyday life covertly or openly, especially in conflict areas where violence against women occurs systematically to paralyze the resistance of certain groups.

This book describes why many people are reluctant to become witnesses or dare not reveal true testimony. The process

of giving testimony is a step full of risks. This risk overshadows and often threatens the life and freedom of witnesses and victims, as well as their families and companions. The vulnerability of witnesses and victims to terror and intimidation, inadequate legal protection, and isolation from the wider community are concrete conditions that worsen the public position of witnesses and victims.

The author describes that protection for witnesses and victims was developed to try to solve the obstacles faced by witnesses and victims and have an important role in efforts to reveal the truth. The existence of this special treatment will open up opportunities to fulfill the rights of witnesses and victims, the rights of the accused, as well as the rights of the Indonesian people. Witnesses and victims will only be willing to disclose what happened to them if they feel protected from the dangers of reprisals, physical violence, intimidation, and stigmatization and if they believe that the justice system will function effectively.

This book also describes examples of case studies, including crimes against humanity in Aceh in 1999, and domestic violence which was reported to LBH APIK Jakarta. What must be considered when a criminal act or violation of human rights occurs in the interest of a witness-victim, namely the victim's right to remedy, truth, and justice which must form the basis of the process of resolving the case. Reasons that make victims not want to report their cases are the notion that violence is a disgrace that should not be known by others, women victims of domestic violence feel ashamed or afraid to sue their husbands, for fear of being stigmatized by society, afraid of being divorced, afraid of losing their livelihood, or reluctant to pressure/ plea from their own family. The provision of protection and support for witnesses and victims is necessary to create a balance between the rights and interests of witnesses and victims, the accused, and the public to achieve the desired goals, namely legal certainty and justice.

The author also outlines the principles of implementing the protection of witnesses and victims. In addition, the model of protection and support for witnesses and victims is very dependent on the objectives to be achieved from implementing this protection. Related to the system of protection for witnesses and victims, there are three important actors in efforts to protect witnesses and victims, there are the state, community service providers, and the community/ society. If they are unable to meet the needs of witnesses and victims, these three actors will become obstacles to uncovering the truth and upholding justice for witnesses and victims.

The presence of these three actors is very important as parties who will be responsible for meeting the needs of witnesses and victims. This effort to meet the needs of witnesses and victims - which was carried out by the three actors in the five stages of the development of the case - is then called the Witness and Victim Protection System. Therefore, these efforts must be seen as one coordinated set of steps, and not as separate parts. The separation will only lead to ineffectiveness or even failure to protect witnesses and victims.

The state is considered one of the important actors because it has the authority and ability to provide security guarantees for witnesses and victims – not limited to physical and psychological security, but also economic security. Meanwhile, in meeting the needs of witnesses and victims, the state cannot work alone. Moreover, in Indonesia, the rule of law and the efforts of law enforcement officers to reveal the truth are considered weak. Not to mention that there are suspicions that the state, both the apparatus and the elites in the government, are involved in the acts of violence that have occurred so far. Therefore, the role of community service providers is considered capable of fulfilling witnesses and victims. Furthermore, the community/society has enormous potential in providing protection and support to witnesses and victims. Moreover, the community is the closest party to the victim, so it is not uncommon for the community to be the victim's first place in their efforts to seek protection. Hence, the community can play a role in providing support (especially and not limited to moral support) for witnesses and victims.

Meanwhile, concerning standards for the implementation of protection, protection for witnesses and victims that have been provided since the incident of violence occurred, the investigative process, pre-hearing, and hearing, until the trial is over must have implementation standards. The implementation standards are extracted from various experiences of international courts and the experiences of courts in various countries such as Yugoslavia, Rwanda, South Africa, and

Canada. This standard also refers to international treaties that have been signed or ratified by most or several UN member states. The basis of this implementation standard is the fulfillment of the rights of witnesses and victims. These rights do not conflict with the needs of witnesses and victims, and even address the problems faced by them at every stage of a case's development.

Related to the investigation, it is a fact-gathering process that aims to reveal facts and the process of explaining the problems of a problem. Therefore, enforcement of investigative ethics is needed. In addition, under certain conditions, witnesses or victims need people who have long been known and trusted to accompany them through the process of giving testimony. Nonetheless, the existence of a companion has both positive and unfavorable advantages to the ongoing judicial process.

The author also describes that giving a testimony about crimes against humanity or cruel violence is a risky act. Threats to the safety of witnesses and victims, as well as judgment or labeling by society, are things that are often faced by witnesses and victims, especially against women. Therefore, in the interests of witnesses and victims, witnesses have the right to keep their identities confidential. Thus, it is necessary to formulate a policy and procedure to protect the confidentiality of the identity of witnesses and victims that is carried out by volunteers, workers, and related parties.

In addition, a change of identity is required to be given to witnesses or victims if their safety is not guaranteed due to the disclosure of the testimony they have carried out. One form of giving a new identity is the transfer of residence (relocation). If possible, this change of residence is discussed before the court judge reads out the verdict. If the witness or victim cannot return to their original residence and get their job back before giving testimony, considerations for assistance in obtaining a new place of residence must be carried out immediately, even arranged in advance. Once a witness or victim has been moved, he or she must immediately be able to become independent. Giving a new place of residence should not be better than the position before giving testimony to minimize discordant voices regarding this program and to prevent slander that this practice is persuasion so that witnesses and victims will give testimony.

This identity change program does not have the authority to provide accommodation individually to witnesses or victims who have been handled. However, if witnesses and victims no longer have homes and jobs as a result of their testimony, they have the right to follow the procedure for requesting compensation. Compensation in the context of the Law on Witness and Victim Protection is compensation given by perpetrators to victims as a form of accountability for perpetrators. Meanwhile, the state will only be responsible for providing compensation to victims in cases of gross human rights violations, not for other cases.

This book describes that the implementation of a system of protection and support for witnesses and victims as a whole, tailored to the needs of witnesses or victims is expected to be able to provide freedom for witnesses and victims to disclose events that have been experienced, heard, or known about. Various improvements to the protection system for witnesses and victims will certainly break down the barriers that have so far been a block in society.

This book is highly recommended for teachers of constitutional law, state administrative law, human rights, students, legal practitioners, and the general public as a reference, don't miss it.

Happy reading!

"Science will develop along with the development of human life. There is no reason whatever hinders self-development. Someone else does not determine our style, but it is ourselves who determine which way our life journey will go."

Vote Right of Indonesian National Armed Forces(TNI)/Police of the Republic of Indonesia (Polri)

LUTHFI WIDAGDO EDDYONO
Constitutional Court Researcher

Voting for TNI/Polri in a general election in the Indonesian context is a phenomenon. Reflecting on the practical political experience of the Indonesian Armed Forces (ABRI) with the ABRI dual function concept, it is agreed that until now, members of the TNI/Polri have not exercised this right.

It turned out that this was discussed in the 21st BP MPR PAH I Meeting, February 25, 2000, with the agenda of a Hearing with the TNI Commander led by Harun Kamil. On this occasion, the Commander of the TNI, Widodo AS proposed the position of the TNI strategically, towards practical politics. Here's the description:

> "Regarding Article 2 Paragraph (1), the Indonesian National Armed Forces believes that the paragraph in this article needs to be perfected. The People's Consultative Assembly as the highest state institution that carries out people's sovereignty, its membership consists of members of the House of Representatives who reflect representatives from political parties elected through elections. And there are representatives or envoys from the regions whose determination is based on elections in the area. Bearing in mind that the territory of Indonesia consists of regions that have different potentials, conditions, and problems. As the material for the Ad Hoc Committee I of the Working Committee of the People's Consultative Assembly of the Republic of Indonesia, we would like to convey our thoughts on the position, function, and role of the Indonesian National Armed Forces in carrying out its service to the nation and state following the new paradigm. The Indonesian National Armed Forces are determined to leave their role in practical politics. Besides, it was marked by the neutrality of the TNI in the elections, and its willingness to end its presence in the House of Representatives in 2004."

TNI Commander Widodo AS also mentioned that the right to vote is crucial as a citizen and also part of constitutional rights. This is also related to the presence of the TNI faction in the People's Consultative Assembly. The following is his explanation as disclosed in the Comprehensive Manuscript of Amendments to the 1945 Constitution of the Republic of Indonesia, Background, Process, and Results of the 1999-2002 Discussion, Book II State Joints/Fundamentals (Jakarta: Secretariat General and Registrar of the Constitutional Court; Revised Edition, July 2010).

> "However, on the other hand, members of the TNI are citizens of the Republic of Indonesia who also have the same political rights as other citizens of the Republic of Indonesia, namely the right to vote and be elected. The rights owned by members of the TNI are not used by the TNI with consideration for the integrity and cohesiveness of the TNI required in carrying out their duties. Besides, as a component of the nation, of course, the Indonesian National Armed Forces hopes to be able to contribute their devotion and thoughts in determining the direction of the nation's development in the future. With the considerations mentioned above regarding whether or not the TNI Fraction is needed in the People's Consultative

Assembly of the Republic of Indonesia, we fully submit it to the Ad Hoc Committee I of the BP MPR for further discussion.

The Constitutional Court once decided on the issue of the TNI/Polri's voting rights. In Decision Number 22/PUU-XII/2014, for example, the Constitutional Court stated that the Law on the Police and the Law on the TNI regulate prohibitions on practical politics and the Law on General Elections for Representative Institutions and the Law on General Elections for the President which regulates that members of the TNI and members of the Police do not exercise their rights to vote is a policy choice for the legislature.

According to the Constitutional Court, Article 30 paragraph (2) of the 1945 Constitution states, "State defense and security efforts are carried out through a system of defense and security for the entire people by the Indonesian National Armed Forces and the Indonesian National Police, as the main force, and the people, as the supporting force." Meanwhile, Article 30 paragraph (4) of the 1945 Constitution states, "The National Police of the Republic of Indonesia as a tool of the state that maintains security and public order must protect, protect, serve the community, and enforce the law". Because the very strategic tasks of the TNI and Polri require a neutral attitude in practical politics, Article 260 of Law 42/2008 is a political policy that forms laws that are not contradictory to the 1945 Constitution.

In the decision of the case submitted by Ifdhal Kasim and Supriyadi Widodo Eddyono, the President's statement was explained which was delivered at the Court hearing which emphasized the importance of neutrality for members of the TNI and members of the Police, bearing in mind that the existence of the TNI and Polri is needed from the central level to the village level. The TNI and Polri essentially carry out the function of stability in the defense and security of the Unitary State of the Republic of Indonesia, not as practical political actors. In addition, according to the President, this assertion is to avoid internal conflicts within the TNI or Polri institutions, bearing in mind that several presidential candidates and political party figures may come from members of the TNI or Polri members who have resigned or have retired. To maintain the existence of the TNI and Polri as defense and security apparatus, according to the President it is appropriate if the TNI and Polri remain neutral in the 2014 Presidential General Election.

The Constitutional Court further argued the importance of neutrality for members of the TNI and Polri as outlined in Article 260 of Law 42/2008 by stating that members of the TNI and Polri do not use their right to vote. It is an acknowledgment that members of the TNI and Polri basically have the right to vote as other Indonesian citizens, but the phrase "don't exercise their right to vote" actually emphasizes the attitude that must be taken by members of the TNI and Polri to be neutral.

Therefore, Article 260 of Law 42/2008 states, "In the 2009 general election for President and Vice President, members of the Indonesian National Armed Forces and members of the Indonesian National Police did not exercise their right to vote", according to the Constitutional Court, does not provide legal certainty. It is because in the General Election of President and Vice President which will take place in 2014 a quo provision does not apply, or members of the TNI and members of the Police can exercise their right to vote, and there is no need to maintain neutrality. This is not following the Court's considerations above. Thus, according to the Court to avoid legal uncertainty which contradicts Article 28D paragraph (1) of the 1945 Constitution, the phrase "2009" in Article 260 of Law 42/2008 must be read as stated in this decision. Hence, the petition of the Petitioners has legal grounds. With that in mind, the absence of TNI/Polri's right to vote is clearly an open legal policy and has constitutional support. ■

The History of the Special Region Establishment (2)

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Constitutional Court Researcher

On May 10, 1940, Nazi Germany invaded the Netherlands. The raid was carried out on direct orders from the leader of Nazi Germany, Adolf Hitler. As reviewed by voi. id, Hitler's goal was to ease Germany to surround France. The invasion made the Queen of the Netherlands, Wilhelmina chose to flee to England when her country was attacked. On May 15, 1940, the Dutch Royal Army surrendered. The Dutch in the archipelago panicked and the fate of their colonies was questioned.

As written by Anggara in the book Special Region in the Indonesian Constitutional System (2020), in England, Queen Wilhelmina took over the Dutch government in exile and began to actively communicate messages to the Dutch people and the colonies in the Dutch East Indies, Suriname and Curracao. On December 6, 1942, through a message on the radio, Queen Wilhelmina said that the Netherlands was revising its relationship with its colonies. Edward Dew in The Difficult Flowering of Surinam: Ethnicity and Politics in a Plural Society (1976) quoted by Anggara describes Queen Wilhelmina's speech as follows: "in which the Netherlands, Indonesia, Suriname, Curacao, will all take part, and in which each will look after its internal affairs, reliant on its power, yet with the will, to assist each other."

On December 7, 1942, according to H.J. van Mook, The Stakes of Democracy in South-East Asia (RLE Modern East and South East Asia) (2015) quoted by Anggara, Queen Wilhelmina repeated her promise through a message disseminated via radio channels:

> "I announced that it is my intention, after the liberation, to create the occasion for a joint consultation about the structure of the Kingdom and its parts in order to adapt it to the changed circumstances. The conferences of the entire Kingdom which will be convoked for this purpose has been further outlined in a Government declaration of January 27th, 1942. The preparation of this conference, in which prominent representatives of the three overseas parts of the Kingdom will be united with those of the Netherlands at a round table, had already begun in the Netherlands Indies, Surinam, and Curacao, the parts of the Kingdom which then still enjoyed their freedom. Especially in the Netherlands Indies, detailed material had been collected for this purpose and it was transmitted to me in December 1941 by the Governor-General. The battle of the Netherlands Indies disrupted these promising preparations."

In the Dutch East Indies, the Dutch East Indies Government represented by Governor General Alidius Warmoldus Lambertus Tjarda van Starkenborgh Stachouwer and the KNIL Army Commander Hein Ter Porten surrendered to General Imamura. This was well expressed by Petrik Matanasi in the article "Dutch East Indies Clucked, Governor General Tjarda Dibui". The handover of power was carried out in a negotiation at the Kalijati Airfield, Subang on March 8, 1942.

According to Muhammad Rijal Fadlia and Dyah Kumalasari in the Indonesian State Administration System During the Japanese Occupation Period (2019), with the unconditional surrender by Lieutenant General Ter Poorten, Commander of the Dutch East Indies Armed Forces on behalf of the United Armed Forces in Indonesia, to the Japanese expeditionary army under the leadership of Lieutenant General Hitoshi Imamura. On March 8, 1942, the Dutch East Indies government in Indonesia ended, and the power of the Japanese Empire was officially upheld.

Muhammad Rijal Fadlia and Dyah Kumalasari explained that Indonesia was entering a new period, the period of Japanese military occupation. In contrast to the Dutch East Indies era where there was only one civil government, during the Japanese era there were three occupation military governments, namely: the Army military government (Twenty-fifth Army) for Sumatra with its center in Bukittinggi, the Army military government (Sixteenth Army) for Java-Madura with its center in Jakarta, Military

Administration of the Navy (Second Southern Fleet) for the area covering Sulawesi, Kalimantan and Maluku with its center in Makassar. Besides that, two special regions (kōci) were formed, Surakarta and Yogyakarta.

Japan then formed a local government based on regulation No.27, containing regulations regarding changes to regional governance mentioned throughout Java and Madura except Yogyakarta and Surakarta. This regulation divided regional government into *syu* (residence), *syi* (municipality), *ken* (regency), *gun* (kawedanan), *son* (sub-district), and *kun* (village). The leaders (co) are called *syico* (resident), *kenco* (regent and mayor), *gunco* (wedana), *sonco* (Subdistrict Head), and *kunco* (village head). With the issuance of this regulation, the old distribution system during the reign of the Dutch East Indies, within the scope of the military government in Java, abolished the provincial status of West Java, Central Java and East Java.

Furthermore, Muhammad Rijal Fadlia and Dyah Kumalasari explained, instead of governor-level positions, on August 8, 1942, a decree was issued that the highest government was *syu* (residency). On Java and Madura there are 18 *syu* namely Banten, Jakarta, Bogor, Priangan Cirebon, Pekalongan, Semarang, Pati, Kedu, Bojonegoro, Surabaya, Madiun, Kediri, Malang, Besuki, and Madura. In this regulation, the function of the residency is no longer an assistant to the governor, but a *syucokan* (resident official) as the highest authority in the residency area who has autonomy so that the *syucokan* position can be said to be the same as the previous governor's position.

According to Anggara, in general, Japan did not change the central and local government of the Dutch East Indies, but the position of the Governor General was abolished, while the Raad van Indie and the Volksraad were frozen. In local government organizations and autonomous regions, the Local Parliament is frozen. However, the organization of the Swapraja government and customary law associations was not changed by the Japanese Occupation government. Even Kings obtained honorary military ranks. The name was changed and the *landschap* was named *Kooti* and Kings through taking new oaths and appointments to break ties with the Kingdom of the Netherlands were then called Koo. Koo's position at this time was considered as part of the family members of the King of Japan.

For example, in Yogyakarta, the Sultan of Yogyakarta based on the Order of the Commander in Chief of the Army on August 1, 1942, was appointed *Ko* Yogyakarta who had to manage the *Koti* (Sultanate) according to the *Gun Seikan* government. According to Anggara, all privileges previously held by the government are permissible as before. Another example, is in Timor, according to Anggara's writings, the Navy-Military government also attempted to use the Council of Kings to run the indirect government. The existence of the Council of Kings gave the perception that the Kings had political power over the Timor region. In May 1943 at Belu, the local Raja was asked by the Japanese Naval Military Government to oversee his subjects on a road-clearing project.

According to Muhammad Rijal Fadlia and Dyah Kumalasari, basically, the Japanese government's policies towards the Indonesian people had two priorities: namely, to remove western influence among the people, and to mobilize them for the victory of the Japanese army. Japanese policy was formed to achieve a goal they had set, which was to structure and redirect the Indonesian economy to support the Japanese war effort and its efforts for long-term domination of East and Southeast Asia. After occupying Indonesia, Japan adopted various policies including the political, economic, and social fields, the education sector, and the military sector.

Concluded by Ni'matul Huda, Asymmetric Decentralization Within the Unitary State of the Republic of Indonesia: Study of Special Regions, Special Regions and Special Autonomy (2014), the aim of the Japanese occupation military government to maintain self-government as a special area was: Japan did not want to change the position of regions in Indonesia and propaganda Japan. Thus, the autonomous regions are willing to cooperate with Japan in winning the Greater East Asia War.

At a time when Japan was starting to be unable to keep up with the military power of the United States and its allies in the Greater East Asia War, Japanese Prime Minister, Kuniaki Koiso, spoke before the Japanese Parliament on September 7, 1944. According to the Budget citing Benedict R. O'G. Anderson, some Aspects of Indonesian Politics under the Japanese Occupation: 1944 –1945 (1961), before the Parliament, Koiso argued, Japan should give independence to Indonesia "later in the future." ■

CONSTITUTIONALITY OF SCHEDULE I NARCOTICS FOR HEALTH SERVICES AND/OR THERAPY INTEREST

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The welfare of the Indonesian people can be realized by improving their health. It can be implemented through efforts to improve the field of medicine and health services by preparing the availability of certain types of Narcotics that are urgently needed as medicine as well as by preventing and eradicating the dangers of abuse and illicit trafficking of Narcotics. Narcotics, on the one hand, can be used as drugs or useful ingredients in the fields of medicine and health services as well as scientific development, but on the other hand, they can also cause dependence which is very detrimental if misused or used without strict and thorough control or supervision. The use of Narcotics without strict and thorough control and supervision, if it is not following the applicable laws and regulations, can be categorized as a crime of Narcotics, because it can harm and cause enormous danger to human life, society, nation, and state, as well as Indonesian national security.

The use of Narcotics that is justified by the government is in the interest of health services and/or the development of science and technology. According to Article 1 number 1 of Law Number 35 of 2009 concerning Narcotics, Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of feeling, reduce to eliminate pain, and can lead to dependence, which is differentiated into schedules. Schedules of Narcotics are grouped as follows:

a. Schedule I Narcotics, are prohibited from being used for health services. In limited quantities, Schedule I Narcotics can be used for the benefit of developing science and technology and for diagnostic reagents, as well as laboratory reagents after obtaining approval from the Minister on the recommendation of the Head of the Drug and Food Control Agency. Schedule I Narcotics are not used in therapy because they have a very high potential to cause dependence, for examples: Heroin/Putaw, Cannabis, Cocaine, Opium, Amphetamines, Methamphetamine/methamphetamine, Mdma/extacy, and so on.
b. Schedule II Narcotics, in the form of raw materials, both natural and synthetic, used for drug production, is regulated by a Ministerial Regulation. Schedule II Narcotics are narcotics with medicinal properties used in therapy and/or for scientific development and have a high potential to cause dependence, for example, Morphine, Pethidine, Methadone, and so on.
c. Schedule III Narcotics have the same arrangement as Schedule II Narcotics. Schedule III Narcotics are Narcotics having medicinal properties and are widely used in therapy and/or for scientific development and have a mild potential to cause dependence, for example, Codeine, Ethyl Morphine, and so on.

The use of Narcotics can cause effects that can interfere with health and can lead to dependence if used without clear controls. If narcotics enter the human body, it will affect the body, especially the brain/central nervous system, causing physical, psychological, and social functioning problems because it can lead to habits, addictions, and dependencies. Regular or regular abuse of Narcotics outside of medical indications can cause

physical, psychological, and social functioning disorders.

Narcotics abuse has very bad effects. They can lead to addiction or result in dependence. This situation, according to Hawari, occurs because of the nature of the drug which causes: (1) an overpowering desire for the substance in question and if necessary by any means possible to obtain it; (2) the tendency to add doses according to body tolerance; (3) psychological dependence, namely when substance use is stopped it will cause psychiatric symptoms, such as anxiety, anxiety, depression, and the like; and (4) physical dependence, namely when substance use is stopped it will cause physical symptoms called withdrawal symptoms.

The use and utilization of Narcotics Category I for treatment or health services cannot be used or restrictions are imposed. According to certain parties, this has resulted in a violation of the constitutional rights of those in need, as requested by the Petitioners and a judicial review has been submitted to the Constitutional Court and has been decided through Constitutional Court Decision Number 106/PUU-XVIII/2022, dated 20 July 2022.

Constitutional Court Decision Number 106/PUU-XVIII/2020

In the Decision of the Constitutional Court Number 106/PUU-XVIII/2020, on July 20, 2022, submitted by the Petitioners: Dwi Pertiwi, Santi Warastuti, Nafiah Murhayanti, A.Md., Perkumpulan Rumah Cemara, Institute for Criminal Justice Reform (ICJR), and Associations of Community Legal Aid Institutions or Community Legal Aid Institutions (LBHM), domiciled as individual Indonesian citizens, Private Legal Entities, and Non-Governmental Organizations or Non-Governmental Organizations, who felt that their constitutional rights had been harmed by the enactment of the norms of the Elucidation of Article 6 paragraph (1) letter a and Article 8 paragraph (1) of Law Number 35 of 2009 (UU 35/2009) contradicts Article 28C paragraph (1) and Article 28H paragraph (1) of the 1945 Constitution.

In its legal considerations, the Court is of the opinion related to the legal position of the Petitioners as follows:

1. Assuming a loss of constitutional rights with the entry into force of the Elucidation of Article 6 paragraph (1) letter a and Article 8 paragraph (1) of Law 35/2009, according to the Court, Petitioner I, Petitioner II, Petitioner III, and Petitioner IV have been able to describe specifically (specifically) in explaining its legal position, especially in explaining the existence of a causal relationship (causal verband) that is factual or potential if the application is granted, the presumption of the said loss of constitutional rights will not occur again or at least will not occur. Therefore, regardless of whether the arguments of Petitioner I, Petitioner II, Petitioner III, and Petitioner IV are proven or not proven regarding the unconstitutionality of the provisions of the norms of the articles being petitioned for review, the Court believes that Petitioner I, Petitioner II, Petitioner III, and Petitioner IV have law positions to act as Petitioner in a quo petition.
2. Meanwhile, according to the Court against Petitioner V and Petitioner VI, there was no convincing evidence that Petitioner V and Petitioner VI in carrying out their duties and roles had a direct relationship with the existence of the Elucidation of Article 6 paragraph (1) letter a and Article 8 paragraph (1) Law 35/2009 contradicts the 1945 Constitution. Therefore, the Court believes that Petitioner V and Petitioner VI cannot be given their legal standing to act as Petitioners in a quo petition.

Furthermore, the Petitioners argued for the unconstitutionality of the Norms of Elucidation of Article 6 paragraph (1) letter a and Article 8 paragraph (1) of Law 35/2009. The Petitioners put forward the arguments for the petition which, if formulated by the Court, are basically as follows:

1. Whereas according to the Petitioners, the use of narcotics as part of the right to health services has been limited based on the Elucidation of Article 6 paragraph (1) letter a and Article 8 paragraph (1) of Law 35/2009 which states that Schedule I Narcotics is prohibited from being used for the benefit of health services, as guaranteed in Article 28H paragraph (1) of the 1945 Constitution;
2. Whereas according to the Petitioners, the implication of the prohibition of Schedule I Narcotics as formulated

in the Elucidation norm of Article 6 paragraph (1) letter a and Article 8 paragraph (1) of Law 35/2009 makes it impossible to use all types of Schedule I Narcotics for treatment or health services is conducted in Indonesia. In fact, in many countries based on existing research, treatment including therapy for certain diseases using Schedule I Narcotics already exists and is used;

3. Whereas according to the Petitioners, the Elucidation of Article 6 paragraph (1) letter a and Article 8 paragraph (1) of Law 35/2009 has resulted in the loss of the Petitioners' rights to benefit from the development of science and technology in the form of health benefits from Schedule I Narcotics as regulated in Article 28C paragraph (1) and Article 28H paragraph (1) of the 1945 Constitution;
4. Whereas based on the aforementioned arguments, the Petitioners request the Court to:

a. Stating that the Elucidation of Article 6 paragraph (1) letter a Law 35/2009 is contrary to Article 28C paragraph (1) and Article 28H paragraph (1) of the 1945 Constitution and has no binding legal force as long as it does not read "In this provision what is meant by Schedule I Narcotics can be used to develop science and health services and/or therapy, and has a very high potential to cause dependence";
b. Declare that Article 8 paragraph (1) of Law 35/2009 contradicts Article 28C paragraph (1) and Article 28H paragraph (1) of the 1945 Constitution and does not have binding legal force;

The Court emphasized that to realize a prosperous, just and prosperous Indonesian society that is materially and spiritually evenly distributed based on Pancasila and the 1945 Constitution, the quality of Indonesia's human resources as one of the national development assets needs to be continuously maintained and improved, including their health status. In addition, to improve the health status of Indonesia's human resources in the context of realizing people's welfare, it is necessary to make efforts to improve in the field of medicine and health services, among others by seeking the availability of certain types of narcotics which may be needed as medicine and/or therapy for certain diseases as well as carrying out prevention. and eradicating the dangers of abuse and illicit traffic of narcotics, especially certain types of narcotics. In connection with the use of narcotics, on the one hand, narcotics for certain types are drugs or materials that are useful for treatment or health services and scientific development, while on the other hand, certain types of narcotics can also cause very high dependence on users and can be detrimental if misused or used without strict and thorough control and supervision.

According to the Court, although the use of narcotics has been used legally and legally recognized as part of health services, at least in several countries, including Argentina, Australia, the United States, Germany, Greece, Israel, Italy, the Netherlands, Norway, Peru, Poland, Romania, Colombia, Switzerland, Turkey, England, Bulgaria, Belgium, France, Portugal, Spain, New Zealand, and Thailand, but these legal facts cannot be used as a parameter, that all types of narcotics can be used for acceptable health services and implemented by all countries. This is due to the different characters, both the type of narcotic substance, the structure and legal culture of the people of the country concerned, including the facilities and infrastructure needed. In this perspective, for the Indonesian state, even though there are legal facts that many people suffer from certain diseases with phenomena that may "can" be cured by the treatment that utilizes certain types of narcotics. This is not directly proportional to the big consequences that arise if they are not treated. There is readiness, especially concerning the legal structure and culture of the community, including the facilities and infrastructure needed are not yet fully available. Moreover, concerning the use of this type of Schedule I Narcotics, it is included in the narcotics category with a very high dependency impact. Therefore, the use of Schedule I Narcotics in Indonesia must be measured from the readiness of the elements as described above, even though there is a possibility of urgency for its use.

Regarding the arguments of the Petitioners regarding the unconstitutionality of the Elucidation of Article 6 paragraph (1) letter a Law 35/2009 to read "In this provision what is meant by Schedule I Narcotics are Narcotics that can be used to develop science and health services and/or therapy and has a very high potential to result in dependence", according to the Court, it is important to classify narcotics into three types of groups as referred to in Law 35/2009, namely Schedule I Narcotics, Schedule II Narcotics, and Schedule III Narcotics, which is an important thing to do, given the nature of the three types. These narcotics have different effects. Likewise concerning the legal consequences that arise, if there is an abuse of the use of narcotics which can cause danger, not only related to life threats but also human life more broadly.

Therefore, it is very relevant that the division of the types of narcotics groups is maintained to be used as a reference in making regulations related to use, study, and research, as well as law enforcement when abuse occurs. Each type of narcotic group has a different impact, especially in terms of the level of dependency, so in determining the scheduler of narcotics that are assigned to a certain type of narcotic group, a very strict scientific method is needed. Thus, related to the desire to shift/change the use of narcotics from one group to another, this cannot be done simply. Therefore, to make changes as mentioned above, policies that are very comprehensive and in-depth are needed through important stages that must begin with research and scientific studies.

Concerning the type of Schedule I Narcotics, it has been emphasized in the Explanation of Article 6 paragraph (1) letter a of Law 35/2009 which can only be used for scientific development and not used in therapy and has a very high potential to cause dependence. Therefore, from the imperative limitation referred to simply, it can be understood that Schedule I Narcotics is a type of narcotics that has the most serious impact compared to other types of narcotics. Thus, in terms of the utilization of Schedule I Narcotics, it cannot be separated from the fulfillment of these very strict conditions, especially if there is a change in its use to other (different) uses which have the potential to cause human lives if an assessment and research is not carried out first. Concerning the utilization of the type of Schedule I Narcotics for health services and/or therapy, as requested by the Petitioners, this is the same as the desire to change the use of the type of Schedule I Narcotics which is imperatively only permitted to develop science. Such limitation of use is inseparable from the consideration that the said type of Schedule I Narcotics has a very high potential to cause dependence. Therefore, based on the legal facts obtained during the hearing, it has been shown that the Petitioners wish to allow Schedule I Narcotics for health services and/or therapy but there is no evidence that a comprehensive and in-depth scientific review and research has been carried out in Indonesia. In the absence of evidence regarding the comprehensive review and research, it is difficult for the Court to consider and justify the wishes of the Petitioners to accept their rational reasons, both medically, philosophically, sociologically, and juridically. Meanwhile, concerning the legal facts in the hearing which confirmed that several countries had legally allowed the use of narcotics legally, this does not necessarily mean that countries that have not or have not legalized the free use of narcotics then it can be said that it does not optimize the benefits of the narcotics in question. In addition to the legal considerations mentioned above, the Court can understand and have a high sense of empathy for sufferers of certain diseases which "phenomenally" according to the Petitioners can be cured by therapy using Schedule I Narcotics, as experienced by the children of Petitioner I, Petitioner II, and Petitioner III. However, this has not been yet a valid result of scientific study and research, the effect or impact that could arise if the Court accepts the arguments of a quo Petitioners. Therefore, there is no other choice for the Court to encourage the use of this type of Schedule I Narcotics by previously carrying out scientific studies and research relating to the possibility of using this type of Schedule I Narcotics for health services and/or therapy. Furthermore, the results of scientific studies and research can be used as material for consideration by legislators in formulating possible policy changes regarding the use of Schedule I Narcotics.

Furthermore, the Constitutional Court explained, it is necessary to ensure that the types of Schedule I Narcotics can be used for health services and/or therapy through the intended study and research. It also aims to provide legal protection and safety to the public from the dangers of using this type of Schedule I Narcotics which are a very high potential to lead to dependence. Therefore, it is imperative that before the results of studies and research, this type of Schedule I Narcotics is only really used for scientific development purposes and is not used for health services and/or therapy, even for the abuse of the type of Schedule I Narcotics which is illegally threatened with very heavy imprisonment (vide Article 111 to Article 116 of Law 35/2009). The punishment for imprisonment is very heavy because the state wants to protect the safety of the nation and state from the dangers of narcotics abuse, especially the type of Schedule I Narcotics. In this case, protection for the public can be realized because this type of Schedule I Narcotics must still be seen as the most dangerous type of narcotics, especially when it is associated with a very high dependency impact. Whereas because the level of dependence on Schedule I Narcotics is very high and dangerous to health, following the provisions of the applicable laws and regulations, Schedule I Narcotics are also prohibited from being used for the benefit of health services and/or therapy. This is because the provision of safe health services to the community

is the responsibility of the state as stipulated in the provisions of Article 54 paragraph (1) and paragraph (2) of Law Number 36 of 2009 concerning Health, which states, "Implementation of health services is carried out responsibly, safe, quality, as well as equitable and non-discriminatory" and "The government and regional governments are responsible for administering health services as referred to in paragraph (1)." Therefore, the state in the context of using this type of Schedule I Narcotics in particular, and the types of Schedule II Narcotics and the types of Schedule III Narcotics in general, are obliged to carry out strict supervision so that the use of narcotics is not abused. In addition to the legal considerations mentioned above, the state is also obliged to guarantee that every citizen gets the fulfillment of the right to health services, as mandated in Article 28H paragraph (1) of the 1945 Constitution. It is in this context that real rationality is one of the very important reasons for carrying out studies and research on the types of Schedule I Narcotics that are possible for health services and/or therapy, including in this case for the benefit of developing science and technology and for diagnostic reagents, as well as laboratory reagents after obtaining approval from the Minister of Health and a recommendation from the Head of the Food and Drug Supervisory Agency, as referred to in Article 8 paragraph (2) of Law 35/2009 (see Presidential statement dated 22 June 2021, p. 17).

Furthermore, according to the Court, the need for certainty whether or not Schedule I Narcotics can be used for the benefit of health services and/or therapy has long been a very urgent need. This is evidenced by the existence of legal facts in the Elucidation of Article 6 paragraph (1) letter a Law 35/2009 which already includes "strict prohibition on the use of Schedule I Narcotics for therapy". In other words, the "phenomenon" regarding the need for this type of Schedule I Narcotics to be utilized for therapeutic purposes has emerged since before Law 35/2009 was promulgated. Thus, through a quo Decision, the Court needs to emphasize that the government immediately follows up on a quo Decision regarding the study and research of Schedule I Narcotics for health services and/or therapy. The results can be used in determining policy, including in this case the possibility of changes in the law by legislators to accommodate the intended needs. This is because the delegation of authority by the Court to the legislators is based on a quo Law 35/2009 not only governs the classification of narcotics but also includes criminal sanctions. Because the law contains the substance of matters relating to punishment (criminalization/ decriminalization), the Court in several of its decisions has maintained that these matters fall under the authority of legislators (open legal policy). Thus, in this Law, 35/2009, regulating the use of narcotics requires very rigid and substantial narcotic regulations is a very sensitive issue, and because Law 35/2009 contains criminal sanctions, it is quite reasonable that the regulation of the norms is left to legislators to follow up on them.

Based on the results of studies and research, if it turns out that the type of Schedule I Narcotics can be used for health services and/or therapy and implementing regulations is needed. Furthermore, the government together with stakeholders must regulate in detail regarding anticipation of the possibility of abuse of this type of Schedule I Narcotics. Therefore, through a quo Decision, the Court also reminded the legislators, including the makers of implementing regulations, to be extremely careful and prudent in anticipating these matters, bearing in mind that the culture and legal structure in Indonesia still require education continuously.

Based on the entire description of the legal considerations mentioned above, the Court has concluded that the provisions of the Elucidation of Article 6 paragraph (1) letter a Law 35/2009 have provided benefits. Besides, legal certainty concerning the right to self-development through the fulfillment of basic needs, the right to education and to benefit from science and technology, as well as for the sake of improving the quality of life and for the welfare of mankind as referred to in Article 28C paragraph (1) of the 1945 Constitution. In addition, these provisions have also provided legal certainty regarding the right to live in physical and spiritual prosperity, to have a place to live, to have a good and healthy environment, and to have the right to obtain health services as referred to in Article 28H paragraph (1) of the 1945 Constitution. Thus, the argument of the Petitioners' petition regarding the unconstitutionality of the provisions of the Elucidation of Article 6 paragraph (1) letter a of Law 35/2009 is groundless according to law.

Meanwhile, the Petitioners' argument relates to the

unconstitutionality of the norms of Article 8 paragraph (1) of Law 35/2009 which has resulted in the loss of the Petitioners' rights to benefit from the development of science and technology in the form of health benefits from Schedule I Narcotics as stipulated in Article 28C paragraph (1) of the 1945 Constitution. Concerning the arguments in the petition of the Petitioners, the Court considers as follows:

1. In assessing the unconstitutionality of the norms of Article 8 paragraph (1) of Law 35/2009 as argued by the Petitioners, the Court needs to emphasize that concerning the assessment of the constitutionality of the applicability of the norms of Article a quo, it cannot be separated from the provisions of the Elucidation of Article 6 paragraph (1) letter a of Law 35/2009 which had been previously considered by the Court. As for the provisions of the Elucidation of Article 6 paragraph (1) letter a and Article 8 paragraph (1) of Law 35/2009 respectively as follows: Explanation of Article 6 paragraph (1) letter a of Law 35/2009: "In this provision what is meant by "Schedule I Narcotics" are narcotics which can only be used for scientific development purposes and are not used in therapy, and have a very high potential to cause dependence. Article 8 paragraph (1) of Law 35/2009: " Schedule I Narcotics are prohibited from being used for the benefit of health services".
2. Because the provisions of the norms of Article 8 paragraph (1) of Law 35/2009 essentially emphasize the prohibition on the use of Schedule I Narcotics for health services, meanwhile the Elucidation of Article 6 paragraph (1) letter a of Law 35/2009 emphasizes the restriction on the use of narcotics only for the development of science and prohibition of the use or utilization of Schedule I Narcotics for therapy. Thus, in considering the constitutionality of the Elucidation of Article 6 paragraph (1) letter a Law 35/2009, the Court has taken the stance that an assessment and research should be carried out immediately on the types of Schedule I Narcotics to determine whether or not they can be utilized for health services and/or therapy, where therapy is also a part of health, the Court affirms that an assessment and research be carried out immediately on the types of Schedule I Narcotics. It may be used for health services and/or therapy, then this also applies in considering the constitutionality of the norms of Article 8 paragraph (1) Law 35/2009 a quo. Thus, the Court believes that the legal considerations in assessing the constitutionality of the Elucidation of Article 6 paragraph (1) letter a of Law 35/2009 are meant to be one unit and used in considering the constitutionality of the norms of Article 8 paragraph (1) of Law 35/2009. Thus, because the Court has taken the stance that the Elucidation of Article 6 paragraph (1) letter a of Law 35/2009 is constitutional, then as a juridical consequence of the provisions of the norms of Article 8 paragraph (1) of Law 35/2009 even this must be declared constitutional.

Based on the description of these considerations, the Court has concluded that the provisions of the norms of Article 8 paragraph (1) of Law 35/2009 have provided legal certainty relating to the right to self-development through the fulfillment of basic needs, the right to receive education and benefit from science and technology, as well as to improve quality of life and for the welfare of mankind, as referred to in Article 28C paragraph (1) of the 1945 Constitution. Besides, these provisions have also provided legal certainty regarding the right to live in physical and spiritual prosperity, to have a place to live, to have a good and healthy environment, and to have the right to obtain health services, as referred to in Article 28H paragraph (1) of the 1945 Constitution. Thus, the argument of the Petitioners' petition regarding the unconstitutionality of the provisions of the norms of Article 8 paragraph (1) of Law 35/2009 is groundless according to law.

Therefore, the Court concluded that the Petitioners' petition had no legal grounds in its entirety. While the arguments and other matters are not considered further because they are seen as having no relevance.

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

~~ARE WE READY??~~
WE ARE READY!!

Immanuel B.B. Hutasoit
Head of International Relations Subdivision

By failing to prepare, you are preparing to fail.
— Benjamin Franklin

Congress, a word that comes from the Latin *congressum*, which in the Indonesian Dictionary (KBBI) is defined as a large meeting of organizational representatives to discuss and make decisions on various issues. Congress is also defined as a large meeting to discuss a problem. As something big is expected to produce big things, the preparation phase of something big deserves attention. The saying goes, careful preparation is the key to success.

Therefore, discussing and exploring the preparations for a big event is something that is no less interesting. A series of achievements and accomplishments, of course, begins with pre-conditions that are prepared in such a way. On this occasion, writing on Hi-MK will try to discuss how the preparations made by Indonesia as a country also actively uphold the values of unity, integrity, and world peace.

Preparations for the second Youth Congress 1928

As a continuation of the 1926 First Youth Congress, it sought the unity of youth movement organizations in one forum. So continuously, since February 20, 1927, then May 3, 1928, and August 12, 1928, a series of meetings had been held by the Association of Indonesian Students (PPPI), a youth organization that has student members from all over the Dutch East Indies (Indonesia before independence). At this last meeting, there were representatives of all youth organizations and it was decided to hold a congress in October 1928, with an agreement to form a committee. Some names are very familiar to us, namely Sugondo Djojopuspito, Muhammad Yamin (Jong Soematranen Bond), Amir Sjarifudin (Jong Bataks Bond), Johannes Leimena (Jong Ambon), and Mohammad Rochjani Su'ud (Pemoeda Kaoem Betawi), etc.

The series of preparatory meetings agreed on some things which were the forerunners of the birth of the October 28, 1928, Youth Pledge, namely the shared understanding that the youth movement must build the Indonesian nation. Fostering the Indonesian nation in question is "Nation Building", and can only be implemented by instilling a basis of unity or unitarism.

As a result of the above review, all youth associations based on regionalism must be merged into the "Young Indonesia Movement". The formation of the Young Indonesia Movement will certainly result in the accelerated dissolution of political parties which are also still based on regionalism.

In the end, in the session on Sunday, October 28, 1928, the second youth congress which took place at the Oost-Java Bioscoop Building, many things became topics of discussion, one of which was about national education and its relation to the balance between education at school and at home. Besides that, it also discussed the importance of nationalism and democracy besides the scouting movement.

The congress was closed with a declaration of allegiance which we have often known as the youth oath followed by the playing of the anthem Indonesia Raya (which later became the national anthem) by Wage Rudolf Supratman, performed on the violin alone without any verses.

Preparations for the 1955 Asian-African Conference

In early 1954, the Prime Minister of Ceylon (now Sri Lanka) Sir John Kotelawala invited the Prime Ministers of Burma, India, Indonesia, and Pakistan to hold an informal meeting in Colombo, Sri Lanka. The meeting, which was later called the Colombo Conference, was held from April 28 to May 2, 1954, to discuss international security and stability in Asia.

One of the agreements at the Colombo Conference was to give Indonesia the task of exploring the possibility of holding an Asian-African Conference (KAA). The Indonesian government swiftly approached diplomatic channels to 18 Asian-African countries to find out the views of these countries on the idea of holding an Asian Conference. In this approach, it is explained that the main objective of the conference is to encourage the creation of world peace and encourage the progress of Asia and Africa.

After a series of meetings and discussions conducted by Indonesia, Prime Minister Ali Sastroamidjojo again invited the prime ministers who were present at the Colombo Conference to hold a meeting in Bogor on December 28-31, 1954, which resulted in the following agreement: Holding the KAA in Bandung in April 1955; Determine the five participating countries of the Bogor Conference as sponsor countries; Determine the 25 Asian and African countries to be invited, as well as determine some of the main objectives of the Asian Conference.

The five objectives are to:

1. Promote cooperation between Asian-African nations;
2. Examine the problems of social, economic and cultural relations of the countries represented;
3. Consider the social, economic, and cultural problems of the countries represented;
4. Consider issues of special interest to the peoples of Asia and Africa, such as issues regarding national sovereignty, racialism, and colonialism;
5. Review the position of Asia-Africa in efforts to promote world peace and cooperation.

In the official document issued by the ANRI National Archives Conversion, it is neatly noted that to prepare for the KAA, a Joint Secretariat was formed by the five organizing countries. Indonesia was represented by the Secretary General of the Ministry of Foreign Affairs. Within the Joint Secretariat, there were 10 (ten) staff who carry out daily work, consisting of 2 (two) people from Burma, one from Sri Lanka, 2 (two) people from India, 4 (four) people from Indonesia, and one from Pakistan. In addition, there were also 4 (four) committees consisting of the Political Committee, Economic Committee, Social Committee and Culture Committee. There was also a committee that handles the following areas: finance, equipment, and the press.

The Indonesian government January 11, 1955 formed an Interdepartmental Committee chaired by the Secretary General of the Joint Secretariat with members and advisors from various departments to assist with conference preparations. It didn't stop there, in Bandung, where the conference was held. A Local Committee was formed chaired by Sanusi Hardjadinata, Governor of West Java. The local committee is in charge of preparing and serving questions related to accommodation, logistics, transport, health, communication, security, entertainment, protocol, information, and others.

We are ready VS Are we ready?

Listening to what we have discussed from the examples of two major congresses/conferences that have been inscribed by the Indonesian nation, the youth congress in the pre-independence era and the Asia-Africa conference was the golden ink of the Indonesian nation during the independence period. Several things become interesting notes.

The Indonesian people understand the importance of communication. This was recorded sweetly through how a series of meetings and gatherings were held during the youth pre-congress. The same thing was also reflected in the preparations for the Asia-Africa conference, where Indonesia immediately invited the initiators to form a joint secretariat. Indonesia understands very well that communication is the key to complete preparation.

The Indonesian nation is so ready for preparing the results of the congress. No one can doubt the importance of the youth pledge that is still echoed today. The youth pledge, which has entered its 94th year, remains a moment that is commemorated as a milestone in the unity of the Indonesian nation in the pre-independence period. Likewise, with the Dasasila Bandung as a result of the KAA, it continues to be a beacon in the development of cooperation between countries in Asia and Africa.

The Indonesian nation is capable of working in large committees. As described in the preparations for the KAA, it is very evident that our nation is very adept at taking part in teams and synergizing all existing potential, even in the form of a joint secretariat with other nations.

Of course, these three notes are minimal conclusions that cannot necessarily be used as a benchmark for careful preparation. But it should be noted that our nation has the ability in all three of these things. How about the Constitutional Court, are you ready to orchestrate the biggest event of the WCCJ (World Conference on Constitutional Justice) congress in Bali next month?

Let's say Amen loudly: We are ready!!

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