

KONSTITUSI

NEW INTERPRETATION OF CONCURRENT ELECTION





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Editorial Greetings

The spread of Corona Virus Disease (Covid-19) hitting Indonesia and even the world has greatly affected various aspects of life. The economic sector has been hit hard by the virus. Stocks plummet, small to medium-sized traders, and malls become empty of buyers. Many people are reluctant to leave their homes because of calls from the government, medical, and clerics to stay away from crowds to avoid the deadly virus. Private and government employees are also affected by temporarily "laying off" their employees, until the spread of Covid-19 slopes in this country.

The Constitutional Court of the Republic of Indonesia (*Mahkamah Konstitusi*, from this point forward, will be used interchangeably with "MK" or "MKRI") is also one of those implementing work from home for its employees. This work from home policy is not without fundamental reasons. Since March 2, 2020, one by one Covid-19 victim has emerged in Indonesia, from those who were positive with Covid-19 to those who died. This situation is also happening in Italy, South Korea, China, Saudi Arabia, the United States, and many other countries. The number of victims of Covid-19, from positive to death cases, has reached thousands. Besides, this policy was taken based on a request from the President of the Republic of Indonesia Joko Widodo which was followed by the issuance of the Circular of the Minister of PANRB No.19 of 2020 concerning Adjustment of the Work System of State Civil Apparatus in Efforts to Prevent Covid-19 in Government Agencies.

Because of that, the Constitutional Court then adopted the policy to postpone the trial for a while. However, for readers and justice seekers who want to file a case, the Court does not automatically close its door. The Court provides a means for justice seekers to be able to submit applications online through simpler.mkri.id. The Constitutional Court still offers consultation services and free information related to applications through the website at mkri.id.

Despite the unconducive conditions due to the disease outbreak, the KONSTITUSI Magazine Editorial Team still completes its task as optimal as possible from home. Rubrics, such as Editorial, Main Report, Vox Pop, Court Tracks, Opinions, Various Figures, and others, are still available, presenting various interesting information.

We have reached the end of this editorial note. On this occasion, we, from the editorial team as well as the leaders of the Constitutional Court, the Justices of the Constitutional Court, and their staff, the officials and employees of the Constitutional Court, hope that the spread of Covid-19 in Indonesia and even in the world will end soon. Let us all pray that we can avoid this massive rare event that has claimed many lives. Hopefully



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MAIN REPORT

NOT EFFICIENT AND COMPLICATED, NEED TO REDESIGN CONCURRENT ELECTION SYSTEM?

The complexity for voters to cast their votes into five boxes is one of the basic evaluations for the implementation of the 2019 Concurrent General Election. Adding to the list of evaluations for the 2019 Concurrent General Election is the number of casualties from the election organizers. Against these things, the Association for Elections and Democracy (Perludem) submits a judicial review regarding the rules of administering Concurrent Elections. Although the Constitutional Court rejected petition No. 55/PUU-XVII/2019, in its legal considerations, the Panel of Judges opens its door for a redesign of the concurrent electoral system.

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ZIG-ZAG DECISION OF CONCURRENT ELECTIONS

It must be admitted that the Constitutional Court as the final interpreter of the constitution has taken a route that is not straight, aka zig-zag in matters of the constitutionality of election administrations. First, in the past, the Constitutional Court decided that a separate legislative election was constitutional. Second, the constitutional election was a five-level concurrent election to elect the president, the House of Representatives of the Republic of Indonesia (*Dewan Perwakilan Rakyat Republik Indonesia* or "DPR RI"), the House of Regional Representatives of the Republic of Indonesia (*Dewan Perwakilan Rakyat Republik Indonesia* or "DPD RI"), the Provincial Legislative Council (*Dewan Perwakilan Rakyat Daerah Provinsi* or "DPRD Provinsi"), and the Regency/Municipal Legislative Council (*Dewan Perwakilan Rakyat Daerah Kabupaten/Kota* or "DPRD Kabupaten/Kota"). Third, elections, under the constitution, concurrently elected the president, DPR, and DPD. Apart from that, it is up to the choice of legal policies of legislators.

Why take the zig-zag route? The classic and irrefutable answer is that there are developments and new legal conditions that the Constitutional Court must respond to when interpreting the constitution through a decision in a proposed judicial review case. For the Constitutional Court, the most important and foremost matter to consider when making a decision is the constitutional argument that leads to a resolution. Therefore, consistency or constancy becomes such a number. This constancy is perhaps considered to have held the Constitutional Court's independence and flexibility hostage in its activity of interpreting the constitution as a living constitution. Despite this, it has been said that there has been a doctrine that is developed so that the Constitutional Court would contribute to realizing sustainable legal certainty. This means that there is an implication: that flexibility is what makes the Constitutional Court seem to work in a zig-zag manner. This includes assessing the constitutionality of the election administration.

In the latest interpretation of the concurrent elections' administration, namely the Constitutional Court Decree No. 55/PUU-XVII/2019 dated February 26, 2020, the Constitutional Court emphasizes the design of concurrent elections by providing options for legislators to choose the arrangement. The most important thing is emphasized by the Constitutional Court that the concurrent election design which has been elected has to synchronize the presidential, DPR, and DPD elections. That's a non-negotiable constitutional mandate.

If we look closely, there are several interesting things regarding this decision that should be noted. First, from the Constitutional Court's argument, this decision was a "confession" of the Constitutional Court who just found out that the five-level concurrent election was just one of the alternatives discussed by the amenders of the 1945 Constitution. Many other alternatives had been discussed previously. Unfortunately, this was not elaborated when the Constitutional Court decided on the Constitutional Court Decree No. 14/PUU-XI/2013 which was previously submitted by Effendi Ghazali. This means that 6 years later, the Constitutional Court just woke up from the original intent of the five-box election which had resulted in the 2019 Election with all its dynamics and results. Was this wrong? No. Although it would be better if in the future, in making every decision, the Constitutional Court has a broader range of ideas than the ocean. That way, not even the smallest matter would be missed that could change the argument or position of the next decision. The changing of legal standing because of the actual legal development may be considered reasonable. However, turning your mind to the realization that you have missed something in the past is not a good precedent.

Second, this verdict was rejected. However, the Petitioners, namely the Association for Elections and Democracy (*Perkumpulan untuk Pemilu Demokrasi - Perludem*), expressed their welcome and joy. This was kind of weird. Generally, if the verdict is rejected, what happens is the petitioner becomes angry, disappointed, and even thinks the Constitutional Court is conservative or unfair. Although generally, the statement ends with a cliché, "However, we still respect the Court's decision," it is still not bad. Why was that? The Constitutional Court's decision on the simultaneity of general elections as stipulated in the general election and regional election laws was not much different from what the Petitioner had

wanted. The Petitioners considered that the Constitutional Court's decision agreed with the petition submitted. The difference was the Petitioners asked the Constitutional Court to strictly separate the national elections consisting of the presidential and vice-presidential elections, members of the DPR and DPD, and local elections that elect DPRD members and regional heads. Meanwhile, the substance of the Constitutional Court's decision synchronized the elections for the president and vice president, members of the DPR and DPD. So, the Petitioners said as quoted in the news, even though the verdict was rejected, it felt like it was 90 percent granted. Our world of constitutionalism would be beautiful if every Petitioner had such universal attitudes. That attitude deserves to be consistently put forward. Not only in this case. It is time to get out of the unstable period, if the verdict is in line with the Petitioner's will, the Constitutional Court and its verdict are praised as high as the blue sky. At other times, once the Constitutional Court's decision is not in line with their wishes and hopes, the Court is then said and labeled negative things. We look forward to the similar attitude of each Petitioner in the subsequent Constitutional Court decisions.

Third, the pros and cons of the Constitutional Court's decision are normal. There is no serious problem with the pros and cons. What becomes a problem is if there is an intention, not just a discourse, to contradict the Constitutional Court's decision.

People who disagree are common, moreover, if their disagreement is conveyed in a clear, polite, and civilized manner. This will not make the public confused about the decision. Maybe the public will understand more. The problem is then rather obvious. In this latest resolution, the Court has locked up its verdict. According to the Constitutional Court, the option that was constitutional and would strengthen the presidential system was when the elections for the DPR, DPD, and the president coincide. This means that the three elections for the people's representative councils cannot be separated from one another. On that basis, now it is the turn to wait for the understanding, awareness, and obedience of the legislators, the DPR, and the President, so as not to hit a setback, to think backward to separate the DPR elections from the presidential elections. However, already that hope is a bit disturbed. After the Constitutional Court's decision, there are political parties that are said to be fighting for the separation of the upcoming 2024 Elections.

They do not agree with the concurrent elections decided by the Constitutional Court. They are trying to ensure that the presidential and legislative elections should not be held concurrently. They will find a way or a solution to it. Somehow.

If this is true, then the question is, what is the Court's decision considered as? Furthermore, what is the Constitutional Court? Why is there a judicial review mechanism? For what is the Court's decision? If in the end, there is no willingness to be aware of and obey the constitutional mechanisms provided. It is unfortunate if what continues to be pushed forward is just a pragmatic attitude, especially while contradicting the Constitutional Court's decision as the guardian of democracy and constitution. Really, this is still a tough challenge for our constitutional culture.

Based on the description above, with a clear and open mind, there appear to be 3 important learning spectrums from the Constitutional Court Decree No. 55/PUU-XVII/2019, though the verdict has taken the zig-zag route. First, so that the Constitutional Court is more empowered to explore all the "readings" that are really ready and comprehensive before deciding. Second, so that the Petitioner, whoever it may be, will always have a gentle attitude and respect towards the Court's decision. Mainly when his application is rejected. Third, legislators need to foster more awareness and collective responsibility as statesmen. The constitutional interpretation has been determined by the Constitutional Court. So, it is obligatory to find the strongest possible way to follow up on the decision. Not the other way around; keeping a secret weapon while looking for momentum to contradict the decision.

It's all a matter of paradigm and our mindset to constitute. Day by day, we should be more mature in practicing law. Let us not just bend our knees and become powerless to pragmatism. If that happened, it would be serious harassment of the holy intention of the founders of the country in establishing this country. The more mature the law is, the more we should submit to the constitution. That is a marker of the increasing culture and civilization of our constitution. Greetings from the Constitution. ■





NOT EFFICIENT AND COMPLICATED NEED TO REDESIGN CONCURRENT ELECTION SYSTEM?

The complexity for voters to cast their votes into five boxes is one of the basic evaluations for the implementation of the 2019 Concurrent General Election. Adding to the list of evaluations for the 2019 Concurrent General Election is the number of casualties from the election organizers. Against these things, the Association for Elections and Democracy (Perludem) submits a judicial review regarding the rules of administering Concurrent Elections. Although the Constitutional Court rejected petition No. 55/PUU-XVII/2019, in its legal considerations, the Panel of Judges opens its door for a redesign of the concurrent electoral system.

During a public lecture in the 2018 National Resilience Institution's Regular Education Program (PPRA) at the Vice President's Palace, Jakarta, on June 26, 2018, Jusuf Kalla called the 2019 Concurrent Election the

most difficult election in the world. Kalla, who was then still serving as the Vice President, emphasized the five-level design to elect members of the DPR, DPD, Provincial DPRD, and Regency/Municipal DPRD, as well as the President and Vice President. Kalla added that apart from that, the

society was also faced with a series of political parties, namely 16 national parties and 4 local parties (Aceh).

He explained that the complexity had occurred because voters would have to elect candidates for legislative members for DPR and DPD at the national level, as well as DPRD at



explained Kalla as quoted in kompas.com at that time.

Not Educating Voters

In reality, the implementation of the 2019 Concurrent General Elections did not necessarily improve people's political intelligence as a constituency for making their choices. Whereas in the Constitutional Court Decree No. 14/PUU-XI/2013, the Panel of Judges emphasized that with the concurrent implementation of the Presidential Election and the Election of the Representative Council, it was hoped that citizens could vote intelligently by considering their own choices.

Based on a survey conducted by the Indonesian Institute of Sciences (*Lembaga Ilmu Pengetahuan Indonesia* or "LIPI") regarding the 2019 General Election and Democracy in Indonesia, one of the basic objectives of the 2019 Concurrent Election, as stipulated in Law No. 7 of 2017 concerning General Elections (General Elections Law) to provide space for voters to be smarter in choosing, was not achieved.

In the survey results, where 1500 respondents from 34 provinces participated, it was stated that 74 percent of public survey respondents felt that they were troubled by technical matters during the 2019 Concurrent General Election. Wawan Ichwanudin who was the 2019 National Priority Survey Coordinator from the LIPI Political Research Center stated that the voters considered the 2019 Concurrent General Election to be categorized as the most complicated election that Indonesia has ever conducted.

"Let alone voting rationally, voters are already confused because of the large number of ballots. The survey results showed that 82 percent of the leading figures considered the Concurrent Election scheme to be changed or reviewed," said Wawan in a release published by LIPI on August 28, 2019.

Unrealized Savings

From the other side, the concurrent model in the 2019 Election has also failed to save the budget or simplify political parties.

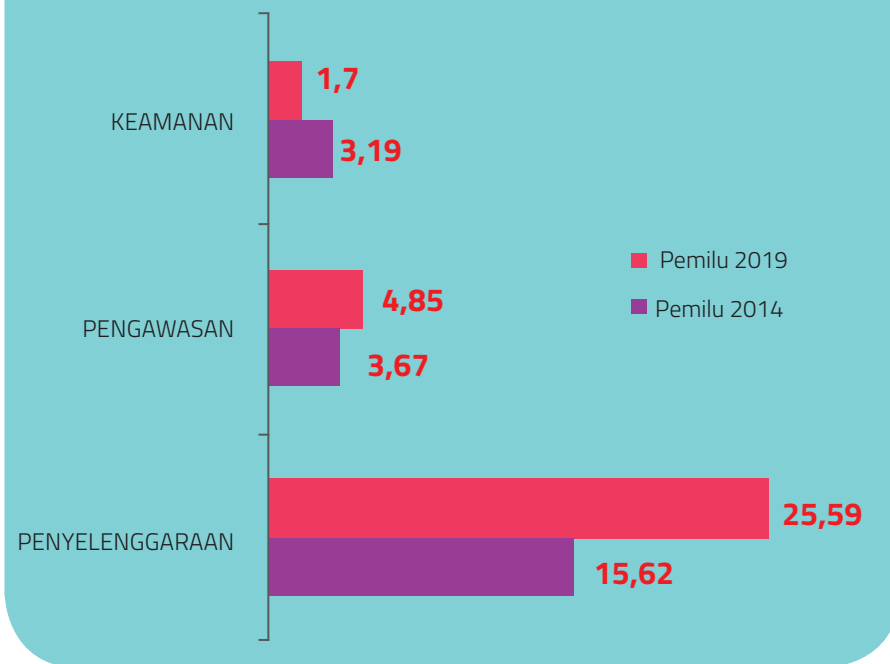
the provincial and regency levels. Then, there was also a presidential election held concurrently with the legislative election.

"Why is it complicated? Because people will choose five different levels, namely the national DPR, level 1, level 2, DPD, and the president. Five ballots must be punched. Imagine the complexity. And surely people will achieve more results in the presidential election first. Surely the quick count will go to the presidential (election), not to the DPR. The exact calculation may be in 1-2 full days. So, I say, this is the most complicated election in the world that we are experiencing,"

"...the right of citizens to vote intelligently in this concurrent general election is related to the right of citizens to build a map of checks and balances from the presidential government with their own beliefs. For this reason, citizens themselves can consider their options to elect members of DPR and DPRD who come from the same party as the presidential and vice-presidential candidates. Only with the concurrent general election can citizens exercise their right to vote intelligently and efficiently. Thus, the implementation of the Presidential Election and the election of the representative council that are not concurrently held is not in line with the constitutional principle which calls for efficiency in the administration of government and the right of citizens to vote intelligently."

(Constitutional Court Decree No. 14/PUU-XI/2013, p. 84).

**BUDGET RATIO
2014 ELECTION AND 2019 ELECTIO**



This shows that the implementation of the 2019 Concurrent Election was not in line with the Constitutional Court Decree No. 14/PUU-XI/2013. In considering the petition filed by Effendi Ghazali, the Panel of Judges stated that the concurrent design of the presidential election and the election for members of the Representative Council could have saved more money.

Still Many Political Parties

Meanwhile, regarding the simplification of political parties, the reality fell short of expectations. As a comparison, in the 2009 General Election, 38 political parties participated, although only 9 passed the 2.5 percent parliamentary threshold. Meanwhile, in the 2014 General Election, 12 political parties were registered as participants with 10 political parties that passed to obtain seats in the DPR by fulfilling the parliamentary threshold of 3.5 percent of the vote.

In the 2019 Concurrent Election, 16 national political parties

Quoted from the Ministry of Finance’s website, the budget ceiling for the 2019 Election was at IDR 25.59 trillion from IDR 15.62 trillion for the 2014 Election. This shows an increase of 61 percent.

budget for supervision and support also increased from Rp.4.85 trillion and Rp.3.29 trillion.

Then, according to the Ministry of Finance’s records, the largest budget allocation was used to finance the activities of *ad hoc* bodies (including the committee) formed by the General Election Commission (*Komisi Pemilihan Umum* or “KPU”), namely 63.6 percent (amounting to Rp.10.04 trillion) of the KPU’s total budget ceiling. From these data, it was known that this was due to an increase in the number of election committees and committee honoraria. Moreover, in the 2019 Concurrent Election, there was the addition of one province, namely North Kalimantan, and 17 regencies/cities in Indonesia. Meanwhile, the

“Third, in line with the above thinking, the concurrent execution of the Presidential Election and the Election for the Representative Council will indeed be more efficient, so that the financing of the administration will save more state money originating from taxpayers and the results of exploitation of natural resources and other economic resources. This will increase the state’s ability to achieve the state’s goals as mandated in the Preamble to the 1945 Constitution, which, among other things, is to advance the general welfare and the greatest prosperity of the people. In addition, the Presidential Election held concurrently with the Election for the Representative Council will also reduce time waste and reduce conflict or horizontal friction in the society.”

(Constitutional Court Decree No. 14/PUU-XI/2013).

and 4 local parties were registered as participants. However, of the 16 parties, only 9 obtained seats in the DPR with votes exceeding the parliamentary threshold of 4 percent. This was not in line with the Constitutional Court Decree No. 14/PUU-IX/2019. In legal considerations, the Panel of Judges explained that the coalition model in previous elections did not result in a permanent coalition of political parties. Whereas, the coalition of political parties was expected to simplify the party system.

Concurrent General Election Reviewed

All the complexities and applications that are not in accordance with these expectations have ultimately prompted a number of citizens to contest the constitutionality of concurrent elections to the Constitutional Court. The Association for Elections and Democracy (*Perkumpulan untuk Pemilu dan Demokrasi* or “Perludem”) submitted application No. 55/PUU-XVII/2019 on 24 September 2019. Three laws were simultaneously being reviewed, namely Law No. 7 of 2017 (Election Law); Law No. 8 of 2015 concerning the Election of Governors, Regents and Mayors; as well as Law No. 10 of 2016 concerning the Election of Governors, Regents, and Mayors.

In the ruling hearing which was held on October 2, 2019, the Petitioner, Fadlil Ramadhil, also a Perludem’s attorney, revealed that they wanted to review the design of the concurrent election in the three laws.

“Because the simultaneity of elections that we are questioning in this noble courtroom is not only related to the simultaneity of elections according to Law No. 7 of

“In practice, the coalition model that is built between political parties and/or with pairs of candidates for President/Vice President does not strengthen the presidential system of government. The proposal of a candidate pair for President and Vice President by a coalition of political parties does not necessarily form a permanent coalition of political parties or a coalition of political parties which will then simplify the party system. Based on this constitutional practice, the execution of the Presidential Election after the Election for the Representative Council does not strengthen the government system required by the constitution. Therefore, the implementation of the Presidential Election that is conducted after the Election for the Representative Council is evidently not under the spirit contained in the 1945 Constitution and not under the meaning of the general election as meant by the 1945 Constitution, particularly in Article 22E paragraph (1) of the 1945 Constitution...”

(Constitutional Court Decree No. 14/PUU-XI/2013, p. 81-82).

2017, therefore, we are also targeting the concurrent election of regional heads. Because we are questioning the simultaneous elections at the presidential, DPR, DPD, provincial and district/city DPRD levels along with the concurrent elections for regional heads,” clarified Fadlil.

The Petitioner also argued that the election system of selecting five different levels simultaneously that had been carried out on April 17, 2019, has proven to cause many problems. The problems that the Petitioner referred to were directly related to the result of the legal framework for the election that had not been well prepared and measured nor based on election principles that were regulated in Article 22E paragraph (1) of the 1945 Constitution.

“In our opinion, the problem is very basic; that is the concurrent election system in the *a quo* law is against the principles of direct, general, free, secret, honest, and fair elections,” explained Fadlil.

Low Degree of Voter Representation

Afterward, the Petitioners explained that apart from being burdensome for voters, the five-box concurrent election had also caused the increase of invalid votes. The Petitioners considered this as a degradation of voter representation in an election process. The Petitioner argued that in the implementation of the 2019 Legislative Election, based on the results of the recapitulation of votes conducted by the KPU, there were a total of 17,503,953 invalid votes when compared to the total number of voters of 157,475,213, the percentage of invalid votes was very large, namely 11, 21%.

When compared to the results of the legislative elections that had been determined by the KPU, the number of invalid votes only lost to the total votes of Indonesian Democratic Party of Struggle (*Partai Demokrasi Indonesia Perjuangan* or “PDIP”) as the winner of the election with 27,053,961 votes and lost to the Great Indonesia Movement Party



Recapitulation process of 2019 Concurrent General Election vote results in #026 Polling Station (TPS), Kebun Jeruk, Jakarta Barat, Rabu (17/4/2019)

(*Partai Gerakan Indonesia Raya* or “Gerindra”) as the second winner of the election with 17,594,839 votes. The total number of invalid votes beat the votes acquired by each of the 7 other political parties that won seats in the DPR.

“The large number of invalid votes was partly caused by the confusion of voters to give five ballots a choice at once. You can imagine the number of invalid votes, of course, the quality and degree of representation in the election were low,” said Fadlil.

Equality of Authority Interfered

Besides, the Petitioner also argued that the schedule separation for the regional head elections and the DPRD members has disturbed the equal authority between the regional heads and the DPRD as well as the effectiveness of government in the regions. According to the Petitioner, there were several impacts caused by the separation of the election between the regional heads and DPRD, including the rise of transactional politics for short-term interests for the sake of regional head candidates.

“This practice has become a very unsettling fact, although it has not been resolved in a legal decree that has a permanent legal standing, several allegations of political dowry practice are a sign that there is a serious problem in regional head candidacy in the form of transactional practices for regional head elections,” said Khoirunnisa Agustyati in the same trial.

The Petitioner considered that the separation of the regional head election from the DPRD election had an impact on the effectiveness of regional government, especially in the formulation of policies such as regional regulations. In each regional regulation formulation, the regional head and the DPRD were given the authority to propose and formulate regional regulations. However, the DPRD was given the authority to approve or reject proposals for regional regulations from the regional head. “So, the problem that arises is: oftentimes elected regional heads get a minority of seats in the DPRD which disturbs the effectiveness

of regional government, and even triggers corrupt practices,” added Khoirunnisa.

Not a General Election Regime

Regarding the petition, the DPR, represented by Commission III member, Habiburokhman, delivered its rebuttal at the hearing which was held on November 18, 2019. He said that the Petitioners’ argument that the DPRD elections be combined with the election for regional heads was not legally based. The DPR had the perspective that the election for regional heads was a part of the regime of the head of regional government as referred to in Article 18 paragraph (4) of the 1945 Constitution and was not a general election regime as referred to in Article 22E of the 1945 Constitution.

Habiburokhman explained that concurrent elections could simply be defined as an electoral system that held several elections at one time simultaneously. In the implementation of the concurrent electoral system, he continued, the practice of law that was widely applied was to combine executive elections with legislative elections. For example, concurrent elections were held in Brazil in early 1994 and succeeded in stabilizing and streamlining the government, so that within 15 years, Brazil became a world economic power.

“Therefore, the design submitted by the Petitioner for Case No. 55/PUU-XVII/2019 regarding the execution of concurrent national and regional elections because the concurrent regional elections that are currently in effect have resulted in an ineffective running of the government is an unfounded request,” he explained.

Then, Habiburokhman also added that the upcoming concurrent national election was scheduled for

2024 to coincide with the five-year election agenda (Presidential and Legislative elections). It is hoped that lawmakers within 5 years of their reign, will use their 1-2 years of their administration period to focus on electoral politics. Meanwhile, in the following years, the state could focus more on productive activities as an effort to realize various goals of the state.

“This choice of course has been carefully scrutinized by the legislators and following the open law policy of the legislators guaranteed by Article 18 paragraph (7) of the 1945 Constitution in which the structure and procedures for the administration of regional government are regulated,” said Habiburokhman.

Meanwhile, the Government, represented by the Director of Litigation for Legislation, Ardiansyah, revealed that the concept of concurrent elections was to combine the implementation of legislative and executive elections on the same day to allow the creation of a congruent government. With the election of executive officers

(President and Vice President) who receive legislative support, it is hoped that the government will be stable and effective. Congruence can be created because in concurrent elections there is an effect called the coattail effect that is when the election of presidential candidates affects the electability of legislative candidates. “This means that after choosing the presidential candidate, people will tend to give their choice to the legislature that comes from the party that carries the president,” he said in a government’s hearing on October 3, 2019.

The government also explained that elections held simultaneously could create policy-based coalitions. This is because elections also require strong political parties and sufficient resilience in representing the interests of society and offering policy options to demonstrate their ability to lead to the common good.

“...as well as minimizing political pragmatism which is often used as a reference for political actors and parties in establishing coalitions. With concurrent elections, it is believed that political parties

can no longer coalesce pragmatically. Political parties will be more selective in looking for candidates, and not just rely on mathematical considerations. In the long term, it is hoped that this will lead to a natural simplification of the party system,” explained Ardiansyah.

Legal Considerations

Regarding the petition, the Panel of Judges completely rejected the Petitioner’s plea. Decree No. 55/PUU-XVII/2019 was read out by the Chief Justice of the Constitutional Court, Anwar Usman, accompanied by other constitutional justices on February 26, 2020. Even though it was rejected, in its legal considerations, the Panel of Judges again investigated from the beginning the original intent of the simultaneity of elections in the 1945 Constitution, as well as traced the meaning of concurrent general elections in the Constitutional Court Decree No. 14/PUU-XI/2013. The Court finally revealed several options for concurrent general election models that could still be judged constitutional based on the 1945 Constitution.



Titi Angraini as Principal Petitioner accompanied by her attorney Fadli Ramadhani and Khoirunnisa Agustiyati attended the decision hearing of general election law review (UU Pemilu), Wednesday (25/2) in the Plenary Court Room of the Constitutional Court.

Constitutional Justice, Enny Nurbaningsih, who read out the legal considerations related to the original intent of the concurrent election in the 1945 Constitution, explained that after the Court traced the debate during the amendment to the 1945 Constitution, there were many views and debates regarding the simultaneity of general elections. She also added that the administration of a five-box Concurrent Election was one of the ideas that emerged from the amendment of the 1945 Constitution. However, this idea was not the only thing that developed when the 1945 Constitution was amended.

“Based on the tracing of the discussion records or minutes of the amendment to the 1945

Constitution, there are many variants of thought regarding the simultaneity of a general election. In fact, the amenders of the 1945 Constitution do not differentiate between the election regimes,” she explained.

Presidential System Strengthened

Meanwhile, regarding the Constitutional Court Decree No. 14/PUU-XI/2013, Constitutional Justice Saldi Isra revealed that the choice of administering the concurrent election was related to the choice of the amenders of the 1945 Constitution in order to strengthen the presidential government system. Simplification of political parties is one way of strengthening the presidential government system. “For countries whose presidential

government system is built with a multiparty system that is not simple, simplification of political parties is a necessity,” explained Saldi.

In addition, Saldi continued, related to the consideration of the Constitutional Court Decree No. 14/PUU-XI/2013 and to the consideration of the Constitutional Court Decree No. 53/PUU-XV/2017, efforts to strengthen the presidential government system by simplifying the number of political parties participating in the general election could be said as one of the various ways commonly known in the practice of the presidential government system. Simplification of political parties is needed to ease the management of the relationship between the president (as the holder of executive power) and the holders of legislative power.

“In this case, it is commonly understood that, both doctrinally and practically, the more political parties that are in the legislative body, the more difficult it is to manage the relationship between the legislative power holders and the executive power holders. Moreover, there is a situation where support for the president from the legislative body is achieved through a coalition of several political parties,” explained Saldi.

Saldi added that arranging a simultaneous execution of the general election for legislative members along with the presidential and vice-presidential elections was another strategic effort in strengthening the presidential government system. Theoretically, he continued, some research results showed that concurrent elections were considered to be able to strengthen the presidential government system because they could simplify the number of political parties.

VARIANTS OF GENERAL ELECTION IN THE AMENDMENT OF THE 1945 CONSTITUTION



- 1 General elections, both legislative and presidential as well as vice-presidential elections, are held concurrently throughout Indonesia.
- 2 Concurrent general elections only to elect members of the DPR, DPRD and DPD are held throughout Indonesia.
- 3 Concurrent national and local elections.
- 4 Concurrent general elections are conducted at the end of the office term, so that they can be held simultaneously several times in the five years, including the election of governors and regents/mayors.
- 5 The general election is concurrent, but the execution is regulated by law
- 6 The execution of the presidential election and general election are separated. The presidential election can also be followed by the election of governors, regents, and mayors.
- 7 The schedules for the presidential and vice-presidential elections are different from the general election of DPR, DPD, and DPRD.

“Doctrinally, a concurrent general election is a solution to overcome the divided relationship between executive power holders and legislative power holders. Concurrent elections are general elections for legislative members and general elections for president/vice president which are held at the same time,” said Saldi.

Can be Reviewed

Furthermore, Saldi said that as a part of strengthening the presidential government system, the administration of concurrent general elections by synchronizing the general elections for members of representative council (DPR, DPD, and DPRD) with the presidential and vice-presidential elections was still open to the possibility of being reviewed and reorganized. This review and arrangement can be carried out as long as it does not change the basic principles of concurrent elections in the practice of the presidential government system. The basic principle is to maintain the simultaneity of general elections to elect members of the people’s representative councils at the central level (namely the DPR and DPD) with the election of the president and vice president.

“Such considerations, both doctrinally and practically, are based on the argument that the concurrent general election to elect members of the people’s representative councils at the central level with the presidential and vice-presidential elections is a logical consequence of efforts to strengthen the presidential government system,” explained Saldi.

Time Design

Then, Saldi also brought up the design of the general election execution model to elect members of the legislature with the general election to elect the president and vice president. The Court was of the view that the Constitutional Court Decree No. 14/PUU-XI/2013 stated that the execution of a constitutional general election was a general election for members of the legislature held simultaneously with the general election for the president and vice president. However, continued Saldi, the decree did not clearly determine the design or timing of the concurrency.

After retracing the original intent of the concurrent elections; between the concurrent general elections in the context of strengthening the presidential government system and tracing the meaning of concurrent general elections in the Constitutional Court Decree No. 14/PUU-XI/2013, there are several options for concurrent general election models that can still be judged constitutional based on the 1945 Constitution.

However, continued Saldi, the Court emphasized that determining the model of concurrent general elections among these various possibilities was an area for legislators to decide. However, the Court reminded that in deciding the model for the concurrent general elections, legislators need to consider several things among others, namely:

(1) choosing a model that can affect the changing of the law is carried out with the participation of all members

who have concerns about the implementation of general elections;

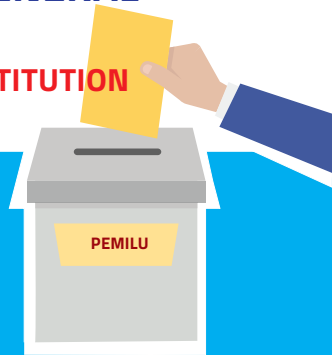
- (2) the process of changing the law as a result of the model choice should be carried out earlier so that there is ample time for simulation before the changes are actually implemented effectively;
- (3) legislators carefully take into account all the technical implications of the available model options so that their implementation remains within the limits of reasonable logic, especially for realizing qualified elections;
- (4) the choice of the model always takes into account the convenience and simplicity for voters to exercise their right to vote as a form of implementing people’s sovereignty; and
- (5) the model of concurrent elections should not often be changed so that the certainty and stability of the administration of general elections are built.

Once again, at the end of the decree, the Court emphasized that the Court was not authorized to determine the concurrent election model among the variants considered above which had been declared constitutional as long as they maintained the simultaneous nature of the general election to elect members of the DPR, DPD, and the President and Vice President. The decision of the concurrent election model is returned to the President and the DPR. We will just wait for the upcoming 2024 elections. ■

LULU ANJARSARI

OPTIONS OF CONCURRENT GENERAL ELECTION MODEL

IN ACCORDANCE WITH THE 1945 CONSTITUTION (DECREE NO. 14/PUUXI/2013)



MODEL 1

Concurrent general elections to elect members of DPR, DPD, president/ vice president, and DPRD members;

MODEL 2

Concurrent general elections to elect members of DPR, DPD, president/vice president, governors and regents/mayors;

MODEL 3

Concurrent general elections to elect members of DPR, DPD, president/ vice president, DPRD, governors and regents/mayors;

MODEL 4

National concurrent general election to elect members of DPR, DPD, president/vice president; and sometime after that, local concurrent general elections are held to elect members of the Provincial DPRD, Regency/Municipal DPRD, governor and regent/mayor;

MODEL 5

National concurrent general election to elect members of DPR, DPD, president/vice president; and sometime after that, a provincial general election is held to elect members of the Provincial DPRD and governor; and then sometime after that, district/city general elections are held to elect members of the Regency/Municipal DPRD and elect the regent and mayor;

MODEL 6

Other options as long as they maintain the concurrent nature of general elections to elect members of the DPR, DPD, and the president/ vice president.



QUESTIONING THE INCONSISTENCY OF THE RULES FOR PROVIDING DERIVATIVE BRIEF OF EVIDENCE

A number of citizens who felt their constitutional rights have been violated by the enactment of the rules regarding the issuance of briefs of evidence, as stated in Article 72 and Article 143 paragraph (4) of Law Number 8 of 1981 concerning Criminal Code Procedure (*Kitab Undang-undang Hukum Acara Pidana* or "KUHAP"), submitted a judicial review to the Constitutional Court. Ibnu Fajar Rahim, Sandhy

Handika, and Danang Yudha Prawira argued that they had the potential to become suspects or defendants at any time because they did not have any legal certainties on whether giving briefs of evidence to a suspect or defendant was a negative right, that was the right based on the request of the suspect or defendant or the obligation of the prosecutor.

In Petition No. 12/PUU-XVIII, the Petitioners argued that, if the stipulation of Article 72 and the Elucidation of Article 72 of the Criminal Code Procedure were connected to the stipulation of Article 143 paragraph (4) and the Elucidation of Article 143 of the Criminal Code Procedure, there was an antinomy between Article 143 paragraph (4) and the Elucidation of Article 143 of the Criminal Code Procedure which explained the obligation for the prosecutor (positive rights for the suspect) to provide derivative case transfer letters and indictment letters including briefs of evidence to the suspect or his legal adviser and the investigator at the same time as the submission of the case transfer letter to the District Court, with Article 72. and the Elucidation of Article 72 of the Criminal Code Procedure which stated the negative rights of a suspect or a legal adviser to request a copy of the investigation report including the briefs of evidence for the benefit of his defense. For this reason, the Petitioner asked the Panel of Judges to cancel the validity of the articles being reviewed. (Nano Tresna A.)



FEELING "THREATENED", DRIVING COURSE INSTRUCTORS AND ENTREPRENEURS REVIEW TRAFFIC AND TRANSPORTATION LAW

The constitutionality of the rule on obtaining a driver's license through a self-learning process without the need for education or driving training as stated in Article 77 of Law no. 22 Year 2009 concerning Traffic and Transportation (*Lalu Lintas dan Angkutan Jalan* or "LLAJ") was questioned to the Constitutional Court. The application numbered 14/PUU-XVIII/2020 was filed by Marcell Kurniawan (Petitioner I) and Roslianna Ginting (Petitioner II).

Marcell took issue with the phrase "self-study" in the article which was thought to threaten the right to life of others. In this case, there would be many people who were

incompetent when driving on the road because they were learning to drive. This situation could lead to accidents during training. Besides, Petitioner I, who was a driving instructor and driving competency assessor, felt aggrieved by the *a quo* stipulation because he did not have certainty over recognition, guarantee, protection, and legal certainty for his profession. The next reason, Petitioner II, as an entrepreneur of a driving course and training institution, felt that there was no guarantee of protection for a course and training institution that had been accredited by the Government because the competence of a driver could be obtained by "self-study."

The Petitioner assumed that the word "self-study" could legitimize prospective drivers from not participating in training from an accredited government institution and also not going through a competency test process from a competency certification body. "So, this is detrimental to the institution because there is no legal force requiring prospective drivers to be trained and certified by a legitimate institution," Marcell explained in front of a trial chaired by Constitutional Justice Suhartoyo accompanied by Constitutional Justice Saldi Isra and Daniel Yusmic P. Foekh on Wednesday (19/2/2020) afternoon.

Therefore, through the *petitum*, the Petitioners requested that the Court declare Article 77 of Law No. 22 Year 2009 concerning Traffic and Transportation contrary to the 1945 Constitution and had no binding legal force. (Sri Pujianti)

PROSECUTORS TO CONTEST LAW CONCERNING THE POSITION OF NOTARY

The Indonesian Prosecutors Association (*Persatuan Jaksa Indonesia*) (Petitioner I) together with four other Petitioners who were prosecutors conducted a judicial review of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notary (*UU Jabatan Notaris*) on Tuesday (25/2/2020) in the Constitutional Court. The rule reviewed in application No. 16/PUU-XVIII/2020 was Article 66 paragraph (1) of the Law on the Position of Notary which regulated the authority of the Notary Honorary Council (*Majelis Kehormatan Notaris*) to approve or disapprove a notary's summons to attend a case examination. This caused investigators, public prosecutors, and judges to be unable to take further legal remedies.

The loss to the *a quo* article was actually experienced by Olivia Sembiring (Petitioner II), as a prosecutor in charge of handling a criminal offense of information forgery into authentic deeds, who filed a report to an investigator under case No. LP/508/IV/2018/Bareskrim dated 16 April 2018. Based on this reporting, the investigator issued an Investigation Order No. SP.Dik/266/V/RES.2.4/2018/Dit. Tipidsus dated May 15, 2018, and sent an Investigation Commencement Order No. R/91/V/RES.2.4/2018/Dit. Tipideksus dated 15 May 2018 to the Junior Attorney General for General Crimes.



Then, in the process of examining the case of the investigator, the Criminal Investigation Unit of the Indonesian Police Headquarters (*Bareskrim Mabes Polri*) sent a letter to the Chairman of the Notary Honorary Council of West Java Province No. B/1044/V/Res.2.4/ 2019 Dit.Tipideksus dated May 3, 2019, which basically asked for an approval to investigate a notary named Patricia Tirta Isoliani Ginting.

Regarding the aforementioned letter, the Notary Honorary Council gave an answer which basically disapproved of the request. Thus, until now, the enforcement process of the case has been hampered and is detrimental or at least potentially detrimental to the interests of the prosecutors and the public in general. For this reason, the Petitioners asked the Panel of Judges to cancel the validity of the articles being reviewed. (Nano Tresna A.)

CONSTITUTIONAL REVIEW ON ESTABLISHMENT OF PADANG LAWAS REGENCY NOT ACCEPTED

The Constitutional Court was unable to accept Alamsyah Panggabean's petition regarding the review of Law No. 38 of 2007 concerning the Establishment of Padang Lawas Regency in North Sumatra Province in the oral sentence pronouncement on Wednesday (26/2/2020) in the Plenary Meeting Room of the Constitutional Court. The Petitioner, registered with No. 82/PUU-XVII/2019, argued that Article 13 paragraph (2) of the Law on the Establishment of Padang Lawas Regency was contrary to the 1945 Constitution. Moreover, Constitutional Justice Enny Nurbaningsih in the Court's legal considerations explained that the issue questioned by the Petitioner was not actually related to the constitutionality of the norms of Article 1 point 2 of the *a quo* Law, but rather a contestation issue in which the Petitioner

did not qualify as a member of the Padang Lawas Regency DPRD during that period. On this matter, the Petitioner made the basis for himself to have a legal position as a Petitioner in a judicial review at the Constitutional Court.

"Even though the Petitioner is an individual Indonesian citizen, the Petitioner has not suffered losses, either directly or indirectly, with the enactment of the *a quo* norm and there is also no cause-and-effect relationship between the presumption of impairment of the Petitioner's specific constitutional rights and the enactment of the *a quo* norm. Thus, the Petitioner does not have the legal position to act as a Petitioner in the *a quo* petition," explained Enny before the hearing in which the Petitioner did not attend. (Sri Pujianti).



Rene reading the application No. 17/PUU-XVIII/2020.

Furthermore, the Petitioner also made legal remedies for a judicial review, but it was not acceptable. The judicial review decision stated that the *a quo* case originated with the existence of the KPKPU Law, then the provisions in Chapter III Article 289 of the KPKPU Law applied, namely the Debtor was declared bankrupt. With this bankruptcy

SOUTH KOREAN CITIZENS REVIEW THE BANKRUPTCY AND SUSPENSION OF DEBT PAYMENTS LAW

Two South Korean citizens, namely Gi Man Song and So Yun Kim filed a judicial review of Article 235 paragraph (1) and Article 293 paragraph (1) of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payments (*UU Kepailitan dan Penundaan Kewajiban Pembayaran Utang* or “KPKPU”) on Thursday (5/3/2020) in the Plenary Court Room of the Constitutional Court. The applicants were investors as well as shareholders who were South Korean citizens in PT Korea World Center Indonesia (a foreign investment company) in Indonesia.

The Petitioners who were represented by Rene Tantrajaya as the attorney confirmed that the applicants’ constitutional rights and/or authority had been harmed and they had experienced legal discrimination due to Article 235 paragraph (1) and Article 293 paragraph (1) of the KPKPU Law. He said the Petitioners were declared bankrupt with all the legal consequences in the Application for Suspension of Debt Payments (PKPU). According to him, the Petitioners were sentenced to bankruptcy not because of debts but because of an obligation to pay for the services of a mediator who had clearly violated the law and harmed the Petitioners as investors who had been helping the development in Indonesia. “In reality, homologation has been approved by all creditors, which should have been carried out and should not have been rejected by the judge just because there was no guarantee for the payment of the management team fee, even though the Petitioners had provided 7 (seven) pieces of transfer forms in an active account for this payment which had been received by the management team,” said

decision, the provisions of Article 290 *juncto* Article 293 of the KPKPU Law then applied, excluding request for a judicial review as regulated in Article *juncto* Article 290 of the KPKPU Law.

The Petitioners believed that Article 235 paragraph (1) and Article 293 paragraph (1) of the KPKPU Law were contrary to Article 28D Paragraph (1) of the 1945 Constitution which state that everyone has the right to claim guarantees, protections, and legal certainty that are just and equal before the law. These articles of the KPKPU Law create legal uncertainty and injustice because there is no clear and firm interpretation of the clause with regards to the impossibility of filing extraordinary remedies, even though this is an absolute right for the sake of legal certainty and justice.

Other than that, these articles do not reflect the principle of justice, thus causing constitutional loss both for the Petitioners and for other debtors whose cases are not simple. With this limitation of legal remedies, it is possible that loopholes would be exploited to fabricate an unfair business competition to overthrow and stop the business of its competitors through the commercial court. According to the Petitioners, this must be prevented and should not happen, because Indonesia desperately needs the trust of investors to have the courage to invest in helping to develop Indonesia, whose results are expected to be enjoyed and to improve the welfare of all Indonesians.

Therefore, in their *petitum*, the Petitioners requested the Constitutional Court to state that Article 235 paragraph (1) and Article 293 paragraph (1) of the KPKPU Law contradicted the higher prevailing laws, namely the 1945 Constitution, and had no binding legal force with all the legal consequences. (Utami Argawati)



Secretary-General of the Constitutional Court, M. Guntur Hamzah, received an archival supervision award given by the National Archives of the Republic of Indonesia (Arsip Nasional Republik Indonesia or "ANRI") on Wednesday (26/2/2020) in Surakarta, Central Java. Photo: Public Relations/Bayu.

AWARD RECEIVED FROM NATIONAL ARCHIVES OF THE REPUBLIC OF INDONESIA

The Constitutional Court won the archival supervision award given by the National Archives of the Republic of Indonesia. The award was received directly by the Secretary-General of the Constitutional Court, M. Guntur Hamzah, in Surakarta, Central Java, on Wednesday (26/2/2020). The Constitutional Court won the "Satisfactory" category with a score of 89.30.

This award is part of the supervision as well as to capture the performance and the building of motivation to improve quality. In addition, it is an effort to measure the conformity between the archiving standards among the archive creators and the laws in the field of archives.

The assessment carried out in the field of archiving includes archiving policies, archiving programs, archive management, institutions, archiving human resources,

as well as archiving infrastructure and facilities. Under the Regulation of the Ministry of Administration and Bureaucracy Reform (*Peraturan Menteri Pendayagunaan Aparatur Negara dan Reformasi Birokrasi* or "Permenpan RB") No. 30 of 2018 concerning Guidelines for Evaluating Bureaucratic Reforms for Government Agencies, archival supervision is one of the indicators for ANRI's assessment in evaluating bureaucratic reform.

After receiving the award, M. Guntur Hamzah was determined to continue optimizing the archive system in the Constitutional Court. Apart from that, he also expressed his gratitude to the entire Constitutional Court's archival team who had worked hard and carried out the best archival management. Also, with this award, Guntur expected that the Constitutional Court could innovate to create better archival governance. ■

BAYU



Constitutional Justice Wahiduddin Adams accompanied by Indonesian Ambassador to Algeria Safira Machrusah meet the Indonesians at Wisma Duta Indonesia, Algiers, Algeria on Friday (21/2/2020). Photo: Public Relations.

the 2019 Concurrent Election Result (Perkara Perselisihan Hasil Pemilu Serentak 2019 or “PHPU 2019”).

In the investigation, the Constitutional Court completed the case within the period determined by the statutory regulations. For the success of resolving the dispute over the election results, the Constitutional Court received three awards from the “Indonesian World Record Museum (Museum Rekor Dunia Indonesia or “MURI”)”. Besides, Wahiduddin also stated that in September 2020, the Constitutional Court would handle dispute cases over election results for the governor/deputy Governor, regent/deputy regent, and mayor/deputy mayor.

Apart from conveying the development of case management carried out by the Constitutional Court, Wahiduddin also touched on the importance of friendship. He explained that fostering solidarity was a part of religious teachings and was the right of every citizen guaranteed by the 1945 Constitution. At the end of his remarks, Wahiduddin appreciated the support from the Indonesian Embassy in Algeria who had received and helped the Constitutional Court delegation while in Algeria and hoped that this relationship would last as well as strengthen the unity and integrity of the nation in the framework of developing Indonesia.

Cooperation with the Organization of the Islamic Conference

Indonesia and Algeria are two close friends. Not only in political ties and in the field of upholding

FOREIGN RELATIONS EXPANDED

As a nation that carries a constitutional mandate to participate in world peace, the Constitutional Court of the Republic of Indonesia continues to strengthen communication and friendship with many countries in the world. In the February and March 2020 period, the Constitutional Justice made several state visits as a concrete form of carrying out this mission.

Sharing the Development of the Constitutional Court of the Republic of Indonesia

The delegation of the Constitutional Court of the Republic of Indonesia led by Constitutional Justice Wahiduddin Adams attended

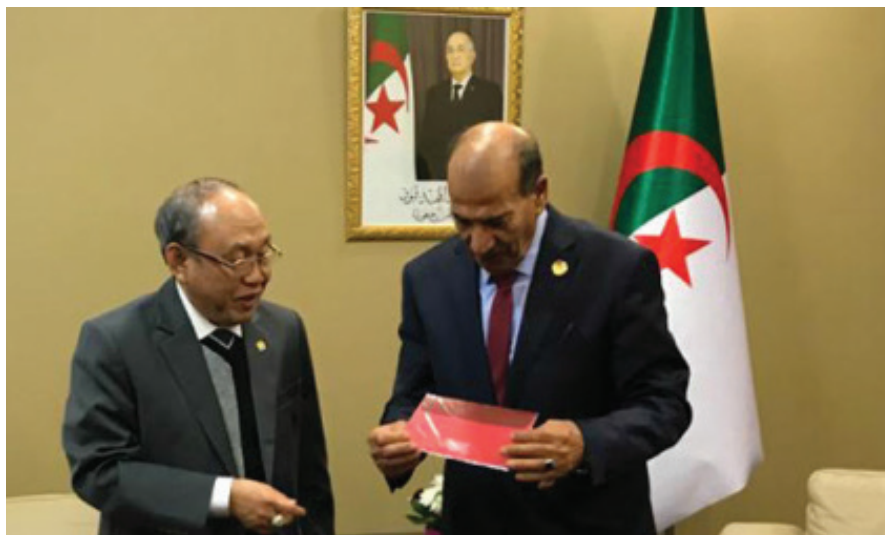
the invitation to the international conference, “Constitutional Justice and The Protection of Rights and Freedoms” organized by the Constitutional Council of Algeria in Algeria. Before joining the international conference, Wahiduddin had the opportunity to meet the Indonesians at Wisma Duta Indonesia, Algiers, Algeria on Friday (21/2/2020).

This event was facilitated by the Indonesian Ambassador to Algeria, Safira Machrusah, and attended by officials and employees of the Indonesian Embassy in Algeria, as well as students and others who worked in Algeria. During the meeting, Wahiduddin delivered some of the latest information regarding the Constitutional Court, including the settlement of the Dispute Case over

constitutional justice, but also the close relationship between the two countries is also reflected in the ties between the Constitutional Court of the Republic of Indonesia and the Algerian Constitutional Council, Algiers (23/2/2020).

When meeting face-to-face with the Chairman of the Algerian Constitutional Council, Constitutional Justice Wahiduddin Adams conveyed how the relationship in upholding constitutional justice has been going on for a long time. In the context of enforcing constitutional justice, the Constitutional Court is the younger brother of the 30-year-old Algerian Constitutional Council. Meanwhile, the Constitutional Court is only 16 years old.

The Chairman of the Constitutional Council also felt the cooperation and friendship in upholding constitutional justice. Retrieving from his memory, he explained that on an occasion, the Constitutional Court gave great support to the Constitutional Council to hold its position as a chairman and a host of judicial conferences for country members of the Organization of the Islamic Conference (OIC).



In this context, Constitutional Justice Wahiduddin Adams also extended an invitation directly to the Chairman of the Constitutional Council to attend the OIC judicial institutions conference which would be held on September 7-12, 2020 in Jakarta. This conference is a regular biennial meeting of OIC country members, especially for institutions

holding judicial powers in constitutional review jurisdictions.

As a response, the Chairman of the Constitutional Council generally welcomed the invitation. If nothing gets in the way, the chairman of the constitutional council will gladly attend the invitation himself or send a representative.



Deputy Chief Justice of the Constitutional Court Aswanto plants pine trees during an international conference organized by the Indian Supreme Court, Saturday (22/2) at the Presidential Palace (Rashtrapati Bavan), New Delhi, India. Photo: Public Relations/Titis.

Discussion in the Middle of a Changing World

The event was opened and attended by Indian Prime Minister Shri Narendra Modi. In the event, Aswanto gave a presentation with the theme "Constitution in A Changing World: Static or Dynamic Interpretation" together with judges from Australia, Nepal, and Nigeria. Aswanto explained the way the constitutional justices interpreted the constitution through the judicial review mechanism.

According to Aswanto, judicial review is the main way of protecting the constitutional rights of citizens against laws that are against the constitution. Constitutional justices have the freedom to use various interpretive approaches in making decisions.

On Sunday (23/2/2020), the conference was continued with the fifth session with the theme "Role

of Judiciary in Protecting Privacy of Citizens in the Internet Age". In this session, issues related to the role of reviewing to protect the privacy rights of citizens were discussed. At the closing ceremony of this conference, each delegation was given the honor to plant trees and Aswanto planted pine trees.

Privacy Rights Conference

The Deputy Chief Justice of the Constitutional Court Aswanto attended an international conference organized by the Indian Supreme Court on 22-23 February 2020 in New Delhi, India. On the second day of the event entitled "International Judicial Conference 2020 on Judiciary and The Changing World," the role of the judiciary in protecting the privacy rights of citizens in the internet era was discussed. On the first day, Aswanto gave a presentation on the

"Constitution in A Changing World: Static or Dynamic Interpretation".

In the session, where judges from Jamaica, France, Ghana, Peru, and Russia presented, the theme related to the privacy rights of citizens was considered one of the most important discussions and became a concern for each country at this time. Moreover, the courts had an important role in creating a balance between the need for public and state access to personal data with the privacy right protected by the constitution.

Meanwhile, the President of India, Shri Ram Nath Kovind conveyed that the theme chosen in this international conference was very appropriate because it was held at the right time: in the midst of a changing world. In the closing ceremony, each delegation was given the honor to plant trees and the Deputy Chief Justice of the Constitutional Court, Aswanto, planted pine trees. ■

BISARIYADI/TITIS



Deputy Chief Justice of the Constitutional Court Aswanto plants pine trees during an international conference organized by the Indian Supreme Court, Saturday (22/2) at the Presidential Palace (Rashtrapati Bavan), New Delhi, India. Photo: Public Relations/Titis.



Secretary-General of the Constitutional Court, M Guntur Hamzah, visits the Ambassador of the Swiss Confederation, Kurt Kunz, on Wednesday (11/3) in Jakarta. Photos: Public Relations.

its citizens from Sabang to Merauke. He also expressed his support for the Constitutional Court regarding the proposal to host the World Court Conference (WCCJ) in 2024 and would forward the communication to the President of the Federal Supreme Court of Switzerland.

French Embassy

The Secretary-General of the Constitutional Court also coordinated with the Ambassador of the French Republic, Olivier Chambard, regarding the agenda of the Constitutional Justice's visit along with the President of the French Constitutional Council which would be held in June 2020. In the Constitutional Court's communication with the Deputy Head of External Relations Services of the French Constitutional Council, the two institutions agreed to jointly monitor intensively the development of global conditions during the spring which would last until the end of May 2020.

In the visit that will be led by Judge Manahan M.P. Sitompul, the delegation is to discuss the practice of procedural law and constitutional trials in the French judicial system, especially regarding phenomenal decisions concerning the protection of human rights and socio-economic and cultural rights of citizens. Moreover, the Constitutional Court delegation will also benchmark the management of international associations against the French Constitutional Council, which also serves as the Head Office of the Association of Constitutional Courts using the French Language (ACCPUF). "As the Permanent Secretariat of the Association of Asian Constitutional Courts, we certainly have a lot to learn in managing regional organizations that are also actively promoting the rule of law, democracy, and human rights," said Guntur. ■

COORDINATION WITH FOREIGN COOPERATION

Facing the global health condition due to the coronavirus (COVID-19) pandemic, Secretary-General of the Constitutional Court, M. Guntur Hamzah, visited the Swiss Embassy to coordinate the work visit of the Constitutional Justices to the Federal Supreme Court of Switzerland in Lausanne, Switzerland. In the meeting with the Ambassador of the Swiss Confederation Kurt Kunz, he conveyed the result of the Constitutional Court's agreement with the Secretary-General of the Federal Supreme Court of Switzerland was to postpone the work visit which was originally planned for March 2020.

As a plan, the work visit would be led by Constitutional Justice Arief Hidayat to discuss constitutional court practices, especially in the fields of politics & civil rights, as well as socio-economic and cultural issues. In addition, as the Permanent Secretariat of the Association of Asian Constitutional Courts (AACC), the Constitutional Court of the Republic of Indonesia also scheduled a discussion on the management of international

forums given the experience of the Federal Supreme Court of Switzerland as the President of the Association of Constitutional Courts using the French Language (ACCPUF) during the 2015-2019 period.

It is undeniable that the spread of the coronavirus has urged both institutions to increase vigilance, thus the bilateral meeting has to be rescheduled until conditions improve. "As our commitment, the Constitution Court will continue to monitor while waiting for the development of global health conditions to get better. And we still hope to conduct the meeting between the two institutions this year," explained Guntur.

In addition to discussing the Constitutional Court's work visit, Kurt Kunz also appreciated the Indonesian judicial system, especially the constitutional court which was actually carried out specifically and professionally considering Indonesia's vast territory and the large population. On this occasion, he believed that the Constitutional Court's decision has accommodated all the interests of

SHERLY



Secretary-General of the Constitutional Court M. Guntur Hamzah meets Director of the Willy Brandt School of Public Policy Kemmerling, on Monday (2/3) in the Meeting Room of the Constitutional Court Building. Photo: Public Relations/ifa.

THE OPENNESS OF THE CONSTITUTIONAL COURT TO THE PUBLIC

The Constitutional Court received a meeting with the Director of the Willy Brandt School of Public Policy Kemmerling in the Meeting Room of the Constitutional Court Building on Monday (2/3/2020). The arrival of Kemmerling was received by the Secretary-General of the Constitutional Court M. Guntur Hamzah accompanied by the Head of the Information and Communication Technology Center Budi Achmad Djohari, Head of the Human Resources and Organizations Bureau Teguh Wahyudi, Head of the AACC Permanent Secretariat and Foreign Cooperation Sri Handayani, Head of the International Relations, Immanuel

Bungkulan Binsar Hutasoit, and other Constitutional Court staff.

Starting the meeting, Guntur adopted the words of Jeremy Bentham who said that as long as there was no openness, there would be no justice because openness was a tool for struggle and the main guard against dishonesty. According to Guntur, the Constitutional Court is independent, so there is no intervention from other institutions. Thus, having good integrity is not only for the judges, but also for all employees within the Constitutional Court.

In addition, Guntur also said that the Constitutional Court has tried to open up to the public. "We are

trying to achieve transparency in the Constitutional Court by opening access to the public," he said. As a modern and trusted institution, the Constitutional Court has created an electronic-based justice system. Thus, the Constitutional Court has made many applications that are used to facilitate performance and help the public in finding various information related to the Court per their respective interests. For case handling, the Constitutional Court has made applications, such as *simpel.mkri.id*, case tracking, case retrieval, annotation, e-minutation, E-BPRK. Apart from that, they have also made Click MK for the public to download on their smartphones. ■

UTAMI



OFFICE APPLICATION TRAINING

Secretaries and representatives of all heads of bureaus and centers within the Secretariat General and Registrar of the Constitutional Court participate in the Education and Technical Training for the Development of Application Usage, Wednesday (26/2) at the Constitutional Court Building. Photo: Public Relations/Ifa.

The Constitutional Court (MK) held an Educational and Technical Training for the Development of Application Usage for secretaries and representatives of all heads of bureaus and centers in the Secretariat General and Registrar of the Court on Wednesday (26/2/2020). "We hope this activity will be an important support to various activities within the Constitutional Court," said the Head of the Human Resources and Organization Bureau of the Constitutional Court Teguh Wahyudi at the opening of the event.

Besides, Teguh hoped that the participants would be more focused on participating in office application training. "Because we can be important in providing support to the leaders," said Teguh to the 22 employees who attended the training.

Teguh continued that the training for office applications at the Constitutional Court was motivated by the fact that

currently, leaders needed job-related technical support that included *Microsoft*, *Excel*, *PowerPoint*, and other applications.

Meanwhile, Head of the Human Resources Development Subdivision of the Constitutional Court, Andi Hakim, explained that this activity was intended to provide training related to the daily technical skills needed for the secretaries of the Constitutional Court Justices and also the Court employees in charge of technical tasks in the respective bureaus and centers. "This is a good start for the Court. In the future, we hope to develop other activities," said Andi.

In this activity, a guest speaker, Fourida Masruroh, from the Information Technology and Communication Training and Development Agency (*Badan Pelatihan dan Pengembangan Teknologi Informasi dan Komunikasi* or "BPPTIK"), Communications and Information Technology, presented an introduction to *Microsoft Word* from basic to advanced levels. Furthermore, Fourida explained the importance of the Learning Management System (LMS) for employees. "Learning Management System is a software application for online activities, electronic learning programs or e-learning programs and training content," said Fourida. ■

(NANO TRESNA ARFANA)

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Understand Your Constitutional- Rights

