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E-MAGAZINE **KONSTITUSI**

**CONSTITUTIONAL Supremacy
in Times of PANDEMIC**



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THE HISTORY...!!!



CONSTITUTIONAL HISTORY CENTER

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Editorial Greetings

KONSTITUSI

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The busy activities of the Constitutional Court's employees toward the trial for handling the Dispute Over the Results of Regional Head Election (PHPKada) 2020 began to appear around mid-December 2020, shortly after the voting was held on December 9, 2020. Cases of PHPKada requests from various regions also appeared both offline and online. In short, 132 cases were registered by the Constitutional Court for PHP (Dispute Over The Election Result) for the Governor, PHP for the Regent and PHP for the Mayor.

After the lawsuit registration stage, it continued with the revision of the case lawsuit and on January 26, 2021. The Constitutional Court would hold a preliminary examination of the case handled by three Panel of Constitutional Justices. Furthermore, starting February 1, 2021, the Constitutional Court will hold a hearing to hear the respondent's answer, hear the statement of the Related Party and hear the testimony of Bawaslu (The General election supervisory agency).

Of course, all Constitutional Court's employees and Justices worked together to organize and succeed in the 2020 PHPKada case handling trial, through the Regional Head Election Result Dispute Handling Task Force including the MK Media Team. They were involved in the production of news on the 2020 PHPKada trial. It started from registration of the lawsuit, revising the lawsuit, preliminary examination, hearing the response of the Respondent, the Related Party, Bawaslu, to the final hearing of the verdict uploaded to the Constitutional Court website and broadcasting TV news or later to be published in the Constitutional Magazine.

Meanwhile, from the editorial desk of the Constitutional Magazine, as usual, we presented a variety of interesting and actual information from the courtroom, non-courtroom, and other distinctive rubrics that loyal readers are always waiting for. That's our brief introduction. For the attention of readers, we give our gratitude. Long live the Constitution!



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CELEBRATION AND LITIGATION

At the end of January, the commotion was perceived. In the previous year, it was held normally. But the latest celebrations were held during the pandemic. It was a trial for disputes over the results of the 2020 election for governors, regents and mayors that were held starting January 26, 2021. There were 132 cases registered. It means that there were many cases as the Constitutional Court (MK) had to decide.

In accordance with the provisions of the law, the Constitutional Court is given a period of 45 working days to settle everything. Faster finishing is allowed, but being late is not allowed. The time span is calculated from the date of registration of the lawsuit to become a case. It started from January 18, 2021. Thus, in accordance with the stages prepared, the Constitutional Court must decide all cases by March 24 2020 at the latest.

Of the 270 pilkada (regional head elections) events, 132 cases were raised. Nearly half of them turned into cases. In the elections five years ago, of the 269 pilkada, 152 or 50.9 percent arose that became cases in the Constitutional Court. It was more than half. It decreased but it was definitely not an insignificant number. From a glance, there were hundreds of regional elections that were thought to have problems. Or at least the result was questioned. It also included the realm of the process. Because it is considered that results determine the process.

The question is; is it true that the hundreds of regional elections are problematic and should be questioned? There are many possibilities. The answer requires verification. In order not to run wild, allegations must be proven. Court's trial forum would find out later whether the suspicion that had stopped was merely an allegation or that the allegation was real. But before that, if it is withdrawn, there is something interesting to be investigated further, namely what is the real motive of people filing a dispute over the election results to the Constitutional Court?

Observing many things, it can be read at least 6 (six) possible motives behind the people (The Appellants) bringing the dispute over their election results to the Constitutional Court. Interestingly, not all of them are fixated on questions of justice or about losing and winning. There are 6 (six) characters to represent the motives.

First is the idealist. It must exist even if there aren't many. He/she is a person who really wants to get justice.

Because his/her idealism regarding many things in the election contestation is injured, his instincts to defend what he considers to be true and ideal appeared fiery. The proving process becomes a measure of satisfaction for him/her.

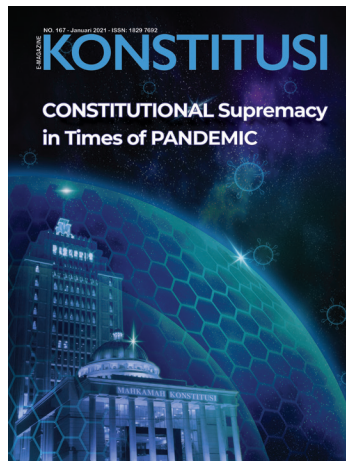
Second is the person who refuses to lose. This could be the highest percentage. This person scans the mere election contestation as a golden bridge to victory. Defeat gets very little procession to think about. When he/she discovers the fact that he had "lost", he was shocked and then rebelled. Fortunately, it is still on the right track at Constitutional Court. Third is the person who wants to lose with respect. Although it is realized from the start that the probability of winning was minimal, they feel more comfortable and honored to be beaten by the knock of the Constitutional Court's hammer. The decision of Constitutional Court is the main reason.

Fourth is the trial and error. This person has nothing to lose. If they win in the Constitutional Court, they will be grateful and losing was their fate, at least they think they have tried. Fifth is the bully. This person comes to the Court to "bluff" the candidate who gets the most votes. He/she wants to increase political bargaining in the eyes of rivals. Often times, this is too scary. Therefore, the latest political deals may be agreed, with for example one condition: the lawsuit to the Constitutional Court must be dropped.

Sixth is the populist. This person wants to go to the Constitutional Court not because of his/her personal will. The fact that he/she

was left behind in obtaining votes, let alone a great difference. It made him can't think about going to court in the Constitutional Court. However, the cheers of the will of his/her supporters are too strong to make his way to the Constitutional Court. By considering so as not to lose the trust of constituents, they are forced to deal with the Constitutional Court.

All will be seen and summarized in the trials at the Constitutional Court. Perhaps, there are other motives beyond those six. The celebration has already started for sure. The Parties have been already involved in the hearings. Prepare yourself, evidence, and strategy. No less important, it is emotion and maturity during a case. It's about reputation. Finally, do not complain a little, especially for matters related to enforcement of health protocols during the trial at the Constitutional Court. We are healthy, you are healthy, we are healthy, everyone is healthy. Have a good fight. Long live the Constitution!





STRENGTHENING THE CONSTITUTION DURING PANDEMIC

The Panel of Constitutional Justices in the plenary session of the submission of the 2020 Constitutional Court Annual Report on Thursday (1/21/2021).

2020 is a full of challenges, the year with real tests like never and never faced before. It is undeniable that the Covid-19 pandemic has significantly affected the social, political, cultural, legal and economic situations and conditions in almost all countries, including Indonesia. The pandemic presents a new sketch of the dynamics of the state and the governance of state administration.

There is no single aspect of life that is not affected by a pandemic. Even so, a pandemic must not shake our devotion to the values of democracy and constitutionalism that have been built and maintained

so far. In fact, this time is a momentum to strengthen democratic institutions and institutions and the constitution in the midst of changes and new situations. In this pandemic situation, it is the duty and responsibility of all parties to make contributions.

Based on this idea, in the midst of this pandemic, the Constitutional Court takes on roles and responsibilities in accordance with the corridors of its authority. Thus, the struggles and hopes for the upholding of the constitution, upholding justice, and protecting the constitutional rights of citizens should not stop. The Constitutional Court is fully aware that change

has been, is and will continue to occur along with this pandemic. So, it takes intelligence to deal with it. Because basically, the meaning and essence of intelligence is the ability to adapt to change. For this reason, the Constitutional Court is challenged and demanded to be more adaptive, more proactive, more progressive, and more innovative in exercising the authority.

The Use of IT Based Tools

During the Covid-19 pandemic, the use of supporting work tools based on the latest modern communication information technology is no longer an option, but it becomes the main thing to support



the vision of the Constitutional Court to become a modern and trusted constitutional court. During a pandemic, the process of handling cases, including trials, is carried out by prioritizing electronic and digital-based devices. Applications can be submitted online via the application provided. The trial is held online. Hence, the Constitutional Judge Panel Board is in the court room of the Constitutional Court, while the Parties are allowed to attend online from their respective locations. At the same time, the public can still access the trial via live streaming.

Such steps are taken based on at least two things. **First**, the Constitutional Court positions the

services and governance of the judiciary, especially to facilitate justice seekers and the public in general to access the Constitutional Court as an inseparable part of the efforts to fulfill the constitutional rights of citizens. **Second**, in order to enforce health protocols to minimize the spread and transmission of Covid-19. For the Constitutional Court, the health and safety of all parties are the main things that are put forward. This is exactly as stated by Cicero, the Italian philosopher, “*Salus populi suprema lex esto*”, it means that the safety of the people is the highest law for a country.

Case Recapitulation

In 2020, Constitutional Court had achieved things, both in the judicial and non-judicial aspects. Regarding the judicial aspect as the core business of the Constitutional Court, since its establishment in 2003 to December 2020, the Court has registered 3,113 cases. Of that number, 3,063 cases or 98.39% of them have been decided. This means that there are still 50 cases or 1.61% still in the investigation process.

From 3,113 cases, 1,430 cases were judicial review cases, 982 cases of disputes over the results of regional head elections, 675

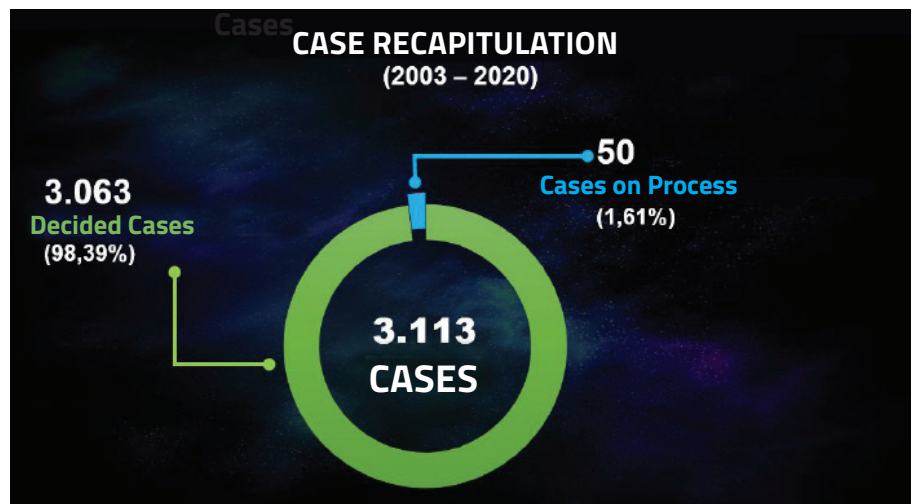
cases of disputes over the results of general elections and presidential/ vice presidential elections, and 26 cases of disputes over the authority of state institutions.

Of the 3,063 decisions, seen from the number, 385 cases were partially granted; 1,404 cases were rejected; 1,018 cases were not accepted, 62 cases were dropped; 182 cases were withdrawn; and 12 cases were declared unauthorized.

Cases in 2020

Meanwhile in 2020, the Constitutional Court registered 109 cases of judicial review. This number is more than in 2019, namely as many as 85 cases. Overall, the number of statutory judicial cases handled by the Constitutional Court in 2020 was 139 cases. In details, 109 cases were registered in 2020 plus 30 cases that had not been completed by the end of 2019.

89 cases have been decided. It means that the Court has completed 64.02% of cases. Meanwhile, 50 cases or 35.98% are still in the process of being investigated. Of the 89 decisions, 3 cases were granted; 27 were rejected; 45 was not acceptable; and 14 cases were withdrawn.



INTRODUCTION TO THE KALEIDOSCOPE OF THE CONSTITUTIONAL COURT

To handle and decide cases in 2020, the Constitutional Court held 834 trials consisting of Justices' Deliberative Assembly or RPH, Panel Sessions, and Plenary Sessions. In more detail, the RPH was held 281 times. Panel Sessions were held 225 times, consisting of 117 Preliminary Examination Sessions and 108 Appeals Revision Sessions. The Plenary Session was held 328 times, with details of 239 Hearing Examination Sessions and 89 times of Decision/Decision Pronouncement Sessions).

It is interesting to point out, in 2020, the Constitutional Court recorded an average settlement time of 82 working days or 122 calendar days per case. In fact, this timeframe was faster than 2019 that took 93 working days or 138 calendar days per case. This note clearly showed the improving performance of the Constitutional Court. It also means that the Constitutional Court's commitment to accelerate the settlement of cases can again be realized.

With regard to the number of laws being tested, during the 2020 period, the Constitutional Court reviewed 61 laws. It was more than in 2019, that was only 56 laws.

Of the 61 Laws applied for review in 2020, there were a number of laws with the highest frequency of testing, as follow:

1. Law Number 2 Year 2020 concerning Stipulation of Government Regulation in Lieu of Law Number 1 Year 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Corona Virus Disease (COVID-19) Pandemic and/or in the Context of Facing Threats Endanger the National Economy and/or Financial System Stability to Become a Law (Law 2/2020), requested for testing 9 times;
2. Law Number 11 Year 2020 concerning Job Creation, wastested 8 times;
3. Law Number 10 Year 2016 concerning Second Amendment to Law Number 1 Year 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 Year 2014 concerning the Election of Governors, Regents and Mayors into Laws, was tested 6 times;
4. Law Number 7 Year 2020 concerning the Third Amendment to Law Number

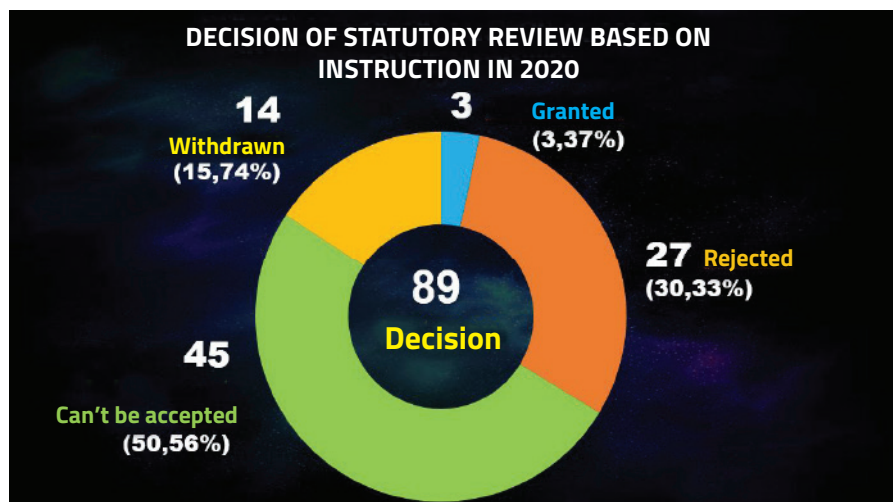
24 Year 2003 concerning the Constitutional Court, Law Number 7 Year 2017 concerning General Elections, and Law Number 3 Year 2020 concerning Amendments to Law Number 4 Year 2009 concerning Mineral and Coal Mining, each was tested 5 times.

Dispute Over the Results of Regional Head Election (PHPKada) in 2020

Regarding the judicial aspect, it can't be separated from the role of the Constitutional Court as an institution that is given the authority to decide regional head election disputes in accordance with Law 10 of 2016. In mid-December 2020, following the determination and announcement of the vote results by the election organizers, the Constitutional Court had received as many as 136 requests.

76 applications or 55.8% were made online and 60 applications or 44.2% were submitted in person (offline). Of the 136 applications, 7 applications were disputed over the results of the election for the governor/deputy governor, 115 applications for dispute over the results of the election for the regent/deputy regent, and 14 applications for dispute over the results of the election for the mayor/deputy mayor.

On January 18, 2021, the Constitutional Court registered 132 applications, because 1 application was withdrawn before the revision and completeness of the application, and 3 applications were multiple applications. For the details, 7 cases of dispute over the results of the election for the governor/deputy governor in cases, 112 cases of dispute on the results of the election for the regent/deputy regent, and 14 cases for dispute over the results of the election for the mayor/deputy





mayor. In accordance with the stages, the Preliminary Examination Session would be held starting Tuesday, January 26, 2021. Based on the provisions, the Constitutional Court had to resolve and decide all cases of disputes over the results of regional heads within 45 working days from registration. It means that at the latest on March 24, 2021, all cases of disputes over the results of regional head elections must be decided.

Public Appreciation

It is also important and interesting to convey that in 2020, the performance of the Constitutional Court will receive recognition as reflected in a number of awards from the public, as follow:

1. Financial Statement Result Award in ;
2. Unqualified Opinion Award from the Supreme Audit Agency on the Audit Report on Financial Statements for the 10th time in a row;
3. Public Information Openness

4. Award from the Central Information Commission.
4. Pancasila and Constitution Education Center received an award as a Service Work Unit with a Corruption Free Area (WBK) predicate;
5. National Archives Award of the Republic of Indonesia was in second place "Satisfactory" in the category of State High Institutions, Ministry-Level Institutions, Non-Structural Institutions and Public Broadcasting Institutions Based on 2019 Supervision Results;
6. Rescue and Preservation of Archives Charter;
7. Award as a Member of the V Best National Legal Documentation and Information Network 2020 for the Category of State Institutions;

Appreciation is not the main motive and objective of the Constitutional Court. The most important thing is consistency to perform the best, full of integrity,

full of dedication, and to be done more professionally.

Quoting from a wise phrase, "There is only one way to avoid criticism: do nothing, become nothing, and say nothing". That criticism is quite common for people who have capable to think. Therefore, there is a value that has been internalized in the Constitutional Court: being praised does not make it proud, criticism will be well received. Criticism actually heals from the ferocity of the disease, pride and easy complacency.

The Constitutional Court also asks for the support of all parties in facing challenges in 2021. Thus, the Court will be more modern, trusted, and able to provide the best contribution to the nation and state. ■

LULU ANJARSARI

**) Summarized from the speech of the Chief Justice of the Constitutional Court Anwar Usman that was delivered at the Plenary Session of the Submission of the 2020 Constitutional Court Annual Report on Thursday, January 21, 2021.*



THOROUGHLY REVIEWING THE HISTORY OF JUDICIAL REVIEW TO STATE POWER

Hakim Konstitusi Daniel Yusmic menjadi narasumber dalam Kongres VI Persatuan Intellegensia Kristen Indonesia yang diselenggarakan secara virtual, Kamis (17/12) di Gedung MK. Foto Humas/Panji.

Closing 2020 and starting for 2021, The Constitutional Court (MK) always maintains consistency in sharing knowledge and experiences with the public. The Constitutional Justices, although in a virtual room, presented various materials related to the law, the constitution, and the powers and functions of the constitutional court institutions in Indonesia.

The History of Judicial Review

Constitutional Judge, Daniel Yusmic P. Foekh was a guest speaker at the 6th Congress of the Indonesian Christian Intelligence Association (PIKI). The activity with the theme "The Strategic Position of Christian Public Institutions in the Indonesian Political

System" was held virtually on Thursday (17/12/2020). At the beginning of his presentation, Daniel explained the existence of the Constitutional Court (MK) as a state institution in the supra structure of politics after the amendments to the 1945 Constitution. Before the amendment of the 1945 Constitution, the MPR (People's Consultative Assembly) was the highest state institution. After the amendment to the 1945 Constitution, the MPR was no longer the highest state institution but had an equal position with other high state institutions.

"Indonesia's constitutional structure prior to the amendment of the 1945 Constitution was actually a duo politico. On the one hand, there is political power held by the MPR. On the other hand, there is legal power held by the Supreme Court," said Daniel.

Furthermore, Daniel explained the history of judicial review through the

Marbury vs Madison Case (1803) in the United States. When the United States Supreme Court annulled the provisions relating to the appointment of justices which became the basis for the judicial review authority of the US Supreme Court. Even though the United States does not have a Constitutional Court, the function of the Constitutional Court rests with the Supreme Court.

Given the idea of the need to establish a Constitutional Court was conveyed by legal expert from Austria, Hans Kelsen in 1920, the Austrian Constitutional Court was formed as the world's first Constitutional Court. Meanwhile in Indonesia, the idea of comparing laws or reviewing laws has been initiated since the independence era by Mohammad Yamin. However, this idea was rejected by Soepomo. Because at that time, not many law graduates in Indonesia understood about comparing laws. In addition, Indonesia does not

adhere to the Trias Politica system in state power.

Years later, there was a proposal from the Association of Law Scholars for the Supreme Court to be given the authority to examine laws. Because Law no. 14/1970 grants limited judicial review authority to statutory regulations under statute. Furthermore, during the discussion of the ad-hoc committee in the process of amending the 1945 Constitution in 1999-2002, the idea emerged that a Constitutional Court should be formed in Indonesia. As a result, it was only on August 13, 2003 that the Constitutional Court of the Republic of Indonesia (MKRI) was formed as the 78th Constitutional Court in the world. The existence of the Constitutional Court is mentioned in Article 24C of the 1945 Constitution.

The Transparency in Justice System

Chief Justice of the Constitutional Court (MK) Anwar Usman was the

speaker for “National Webinar: Challenges of Constitutionalism and the Rule of Law in a Democratic Society,” on Friday (18/12/2020). This activity was held virtually by the Faculty of Law (FH) Universitas Airlangga, in collaboration with five law faculties, namely Law Faculty of Trunojoyo Madura, Law Faculty of Haluoleo University, Law Faculty of Mulawarman University, Faculty of Law Nusa Cendana University, and Faculty of Law, University of Borneo Tarakan.

Anwar stated that the amendment to the 1945 Constitution in 1999-2002 that resulted the Constitutional Court was the right momentum to build Indonesian civilization and state administration towards a constitutional rule of law. The constitution as the basic law of the state, the supreme law of the land must be the foundation and guidance for all elements in running the wheels of the state organization.

“There should not be the slightest, no reason whatsoever for disobeying the constitution. If the constitution is not obeyed, the country’s foundation will be fragile because the constitution

is the basic law of the state. On the other hand, if the constitution is firmly upheld, the country’s foundation will be solid,” Anwar stated.

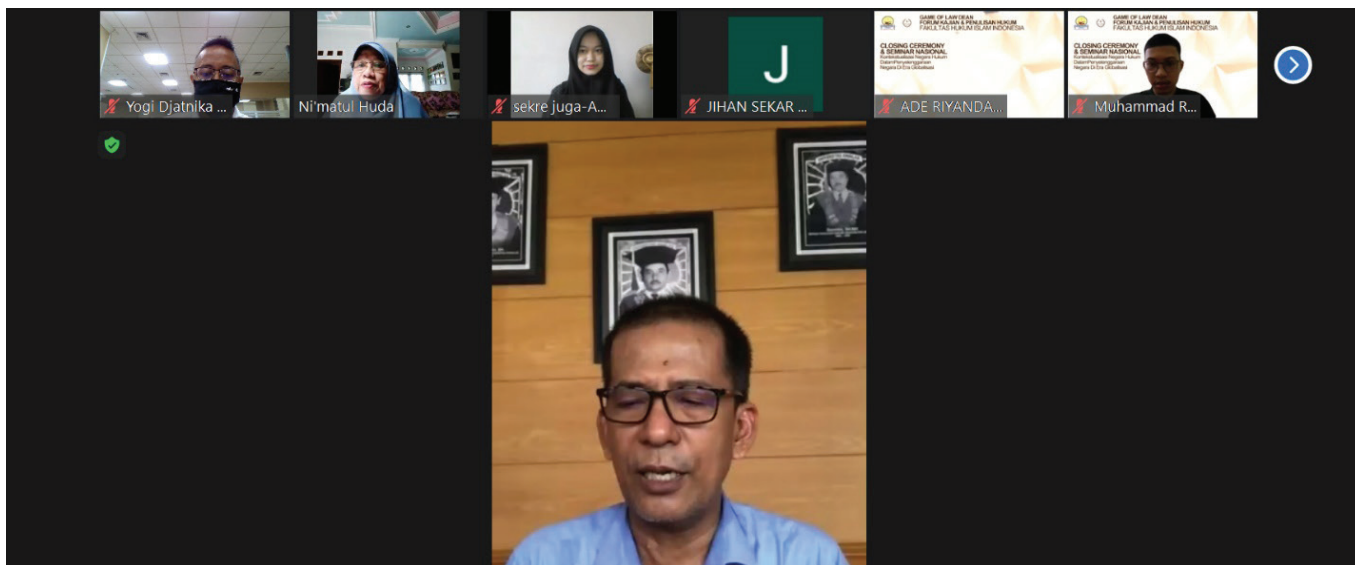
Anwar explained, the development of information and communication technology that has been so rapid lately, has at least had two impacts. There is the mixing of good and bad or true and false information (post truth era) and changing social structures in various established fields (distrust era). Such factual conditions, said Anwar, have implications for constitutional enforcement carried out by state administrators in the field of judicial power or judicial institutions. A court decision will never be able to satisfy all parties. Those who benefited from the verdict naturally felt fair. Yet, for those who feel aggrieved, feel far from justice.

“Misinformation about court decisions can cause public disorder and public distrust to the judiciary. If it occurs, it will be difficult to realize a democratic rule of law,” explained Anwar.

In the framework of strengthening



Chief Justice of the Constitutional Court, Anwar Usman, was the speaker at the National Seminar held virtual by the Faculty of Law Universitas Airlangga, Friday (12/18) at the Constitutional Court Building. Photo: Public Relations/lfa.



constitutionalism in order to enforce democratic law, the Constitutional Court provides constitutional interpretation in each of its decisions. The interpretation of the constitution is in the context of examining, hearing and deciding judicial review cases. All of them boil down to efforts or efforts to uphold the constitution and protect the constitutional rights of citizens.

It is More than Just Problem of Developing Country

Talking about the rule of law, people have started to put it in a broader context. "Internal debates can take place, but it is how to put the rule of law in a global era or in the context of relations between countries," said Constitutional Judge, Saldi Isra while giving a keynote at the National Seminar on "Contextualization of the State of Law in State Administration in the Age of Globalization" held by the Faculty of Law of the Islamic University of Indonesia (FH UII) virtually on Sunday (12/20/2020).

Saldi argued, in commemoration of the 75th Independence of the Republic

of Indonesia, he wrote articles in print media criticizing the development of thoughts and practices of the Indonesian rule of law since the beginning of independence until the 75th anniversary of Indonesia's independence. In this article, Saldi wrote about progress in many matters related to Indonesian law.

"But in many ways, the real challenges faced in the process of enforcing or implementing the rule of law, increasingly become far from simple. Even though there are developments in thought, reinforcement of the rule of law in Indonesia, in the midst of efforts to develop thoughts and strengthen the issue of a rule of law in Indonesia, the challenges facing our rule of law are not as simple as we imagine," explained Saldi.

Saldi said, the country that is often used as a reference for Indonesia regarding the contextualization of a rule of law, for example the United States, is experiencing problems that are no less complicated in terms of a state, especially a rule of law. For example, the tension between Donald Trump and the electoral institutions. Even today, Trump has still rejected the results of the United States Presidential Election. This proves that the rule of law is not only a problem for developing countries, but

Constitutional Judge, Saldi Isra gave a key lecture at the National Seminar on "Contextualization of the State of Law in State Administration in the Era of Globalization" held by the Faculty of Law of the Islamic University of Indonesia (FH UII) virtually on Sunday (20/12/2020). Photo: Public Relations.

also for countries that are considered established.

"Even this morning when you look at the news on CNN, there is tremendous tension around the White House. Because of his plan, Trump asked his staff to take executive action to overturn the results of the presidential election. If we compare what happened in Indonesia with what happened in a country as established by the United States, we are currently facing extraordinary challenges," said Saldi.

The Form of Balance of State Power

To maintain the citizens' constitutionality, judicial review is a must as a form of balance between state power and protection of citizens' constitutional rights. That was the opening sentence delivered by the Chief Justice of the Constitutional Court Anwar



Chief Justice of the Constitutional Court, Anwar Usman in an online Law Talks activity held by the Faculty of Law, Trisakti University on Friday (1/8/2021). Photo: Public Relations/Illham.

Usman in an online Law Talks held by the Faculty of Law, Trisakti University on Friday (1/8/2021).

From the history, Anwar explained that in practice, the constitutional guarantee of citizens for the Indonesian people has had several ups and downs. BPUPK (Investigation Agency for Preparatory Efforts of Indonesian Independence) was established. It consisted a team that designed the constitution until the 1998 Reformation rolled out, that affected the constitution in the aftermath. In essence, continued Anwar, efforts to amend the Constitution were initially an effort to maintain the balance of state administrators, for example, the absence of restrictions on the power of the president makes it possible for the president to rule with his dominant role. In addition, the norms that existed in the constitution prior to the amendment were considered to be very subjective in nature, thus, new norms are needed.

"After the amendment, there are only 12% of the old norms and the remaining 88% of the new norms," said

Anwar in an activity which was also attended by several speakers, including Constitutional Court Researcher Nalom Kurniawan, Iskandar Muda, and Tri Sulistiyowati.

In the National Webinar with the theme "The Position of the Constitutional Court as The Guardian of Constitutions in Guaranteeing People's Constitutional Rights", Anwar stated that the changing norms in the constitution also changed the structure of state institutions including the establishment of institutions such as the Constitutional Court (MK) and Judicial Commission (KY). Thus, there is no longer the highest state institution format and only state institutions which are equivalent. This is what in Anwar's view has begun to become known as the concept of checks and balances or the balance between the branches of state power.

The concept of balance of power that is currently applied or after the amendment of the 1945 Constitution, also changes the paradigm of the concept of democracy that has been adopted by Indonesia. The concept of

democracy is no longer based solely on the legitimacy of elections given by the people to their representatives in the legislative and executive branches, but also on the balance of understanding between democracy and the implementation of constitutional norms that have been agreed as the highest provisions/norms in the state. Therefore, it is necessary to provide an institutional and constitutional mechanism to resolve the possibility of disputes between state institutions which have been equal. In line with this case, there is also an urge that the tradition of examining statutory regulations needs to be improved, not only limited to regulations under laws, but also on laws against the Constitution as the highest rule in the state. ■

SRI PUJIANI/NANO TRESNA ARFANA/ LULU ANJARSARI/ NUR R.



The Chief Justice of the Constitutional Court, Anwar Usman, delivered a speech at the Christmas and New Year 2021 celebration, Friday (1/9) in the Hall of Building 2 of the Constitutional Court. Photo: Public Relations of the Constitutional Court/Panji.

CHRISTMAS AND NEW YEAR'S EVE 2021 CELEBRATIONS

The Constitutional Court (MK) held a Christmas and New Year's Eve 2021 Celebrations with the theme "... and they will name Him Immanuel" and the sub-theme of "Justice of God is Real with Us in Joy and Sorrow." The event took place in the Hall Building 2 of the Constitutional Court, Friday (01/09). Activities were held online and offline with health protocols.

Chief Justice of the Constitutional Court, Anwar Usman, Constitutional Justices Manahan MP Sitompul and Daniel Yusmic P. Foekh, attended offline. Those who attended online were Constitutional Justices for the

period 2008-2013 Maria Farida Indrati, and Constitutional Justices for the period 2003-2008 Maruarar Siahaan.

The Secretary General of the Constitutional Court M. Guntur Hamzah, Head of the Public Relations and Protocol Bureau Heru setiawan, Head of the General Bureau Elisabeth, Young Registrar III Ida Ria Tambunan were also attended offline. Christian Constitutional Court employees, as well as from the Bhakti Orphanage Luhur South Jakarta were present online

In his remarks, the Chief Justice of the Constitutional Court stated that the Covid-19 pandemic was not only happening in Indonesia but also

affecting all countries in the world. This pandemic is still within the limits of human capabilities. "the important is about how we can accept this ordeal," said Anwar in his speech.

Besides, Anwar also said that humans come from the same ancestor, namely Prophet Adam AS. Our predecessors have given examples of how-to live-in harmony and peace. This indicates that the brotherhood between fellow humans has been going on for generations. (Bambang Panji Erawan/ Nur R.)



Attorney for the Appellant Innocentius Teturan Filed a Request for Disputes at Gunung Bintang Regency, Papua Province, on Monday (12/21) in the Hall of the Constitutional Court Building. Photo: Public Relations/Bayu.

REGARDING THE REGISTRATION STAGE OF THE DISPUTE OVER THE RESULTS OF REGIONAL HEAD ELECTION (PHP KADA) APPLICATION

After the announcement of the results of the Simultaneous Regional Head Election in December 2020, justice seekers began arriving at the Constitutional Court to submit applications for settlement of regional head election results (PHPKada). The Constitutional Court as a judicial institution that is given the authority must be ready to provide excellent service. The following is a piece of the story of the beginning of the struggle of justice seekers who came to the Constitutional Court to submit a lawsuit by enforcing the Covid-19 response health protocol.

General Election Commission (KPU) is considered not neutral

The lawsuit from the eastern of Indonesia came to the Constitutional

Court (MK) on Monday (21/12/2020). The lawsuit came from Candidate Pair Number 2 Costan Oktemka and Deki Dealy who challenged the results of the 2020 Gunung Bintang Regency Election, Papua, because it was deemed neutral for the Candidate Pair Number 1 Spei Yan Birdana and Piter Kalakmabin as the election winners.

Costan Oktemka and Deki Deal took issue with the Bintang Mountains General Election Commission (KPU) included candidates for regents and deputy regents who did not meet the administrative completeness and validity on behalf of Yan Birdana and Piter Kalakmabin who have the status of Civil Servants (PNS) and members of the Mountain District Regional People's Representative Council (DPRD) Bintang, which by the provisions of the statutory regulations oblige candidates who were government employee and DPRD (regional people's representative council) members to submit a decision

by the competent authority regarding dismissal no later than 30 (thirty) days before voting day.

General Election Commission (KPU) of Pegunungan Bintang Regency as defendant, until the implementation of the voting on December 9, 2020, still allowed candidate pair number 1 to pass, even though they did not fulfill the completeness and validity of the administration of the nomination of the candidate pairs and they were still included in the 2020 Gunung Bintang Regent Election. Even the candidate pair number 1 only used the Head's Certificate. Regional Civil Service Agency Number 800/1753/BKD, dated November 9, 2020 and Explanation Letter of the Head of Regional Civil Service Agency Number 171/19469 / SET dated November 6, 2020, basically explained "Decree on Dismissal of Civil Servants on behalf of Yan Birdana from the Governor of Papua as one of the requirements for

prospective candidates in the 2020 Pilkada stock exchange, it is still in the process of signing and the Governor's Decree regarding the dismissal or interim replacement on behalf of Piter Kalakmabin, in the process of signing the Governor of Papua ”.

Based to the Appellant, the defendant's actions significantly and significantly affected the appellants' vote acquisition in 34 Districts spread across 383 polls (TPS) due to the partiality and neutrality of the Respondent in organizing the Election for the Regent of the Star Mountains in 2020. Then on the same day, there was also a lawsuit/legal action from Mayor of Surabaya City 2020 that entered at 11:00: 45.

Allegations of Voting Fraud

Seeing from the beginning that there were allegations of fraud committed by the incumbent regarding the transfer of government employee, that were carried out six months after the determination of the candidate pair as in the constitution, this is not justified. However, such fraud occurred and it was committed by the Regent and Deputy Regent candidate pairs who were incumbents in East Luwu. This was stated by Muhamad Ikbal as one of the attorneys for the candidate pair for Regent and Deputy Regent of East Luwu Number 2 Irwan Bachri Syam and Andi Muh. Rio Pattiwiri in an interview with the MK Media crew on Monday (21/12/2020).

In front of the registration counter for the PHP Kada (Dispute Over the Results of Regional Head Election) case, after registering and submitting the evidence of the application, Ikbal said that before submitting the application to the Constitutional Court, he had submitted an application for this problem to Bawaslu but it was not registered by the local Bawaslu. On the basis of this, continued Ikbal, his party filed a lawsuit

and made it the constructed material in the main lawsuit.

In addition, the Petitioners also found that there were several voters who legally could not qualify as voters, but were able to make elections. For example, Ikbal illustrated that in several sub-districts there were voters who used valid identity in the form of ID Card and were registered as additional voters (DPTb) but after they were checked, the voters were not known in the village in question.

“We have prepared evidence, including a statement by the Village Head who stated that he did not know the voters and that there were several people. This is what then became our entrance to the Constitutional Court to open up this very broad, common and TSM (structured, systematic and massive) incident that was carried out from the beginning before the appointment of a candidate pair,” said Ikbal.

Documents to the contrary

Meanwhile, Candidate Pair for Mayor and Deputy Mayor of Palu Number 3 Hidayat and Hanba Yanti Ponulele through Riswanto Lasdins, one of their attorneys, stated that they submitted an application to the Constitutional Court to prove the fraud committed by the KPU (General Election Commissions) in connection with the discovery of differences between the voter list and the people who voted in the election in Palu, Central Sulawesi some time ago. When asked by the MK (Constitutional Court) Media crew about the difference in votes, Riswanto said that his party did not question this, but they would focus on reviewing the irregularities that the organizers considered to have made.

“We found documents that contradict. Meanwhile, we will focus on the organizers first,” said Riswanto. He



Appellants who submitted applications offline on Monday (12/21/2020).
Photo: Public Relations/Teguh.



added that there were four Palu Mayor and Deputy Mayor candidates competing in the 2020 Pilkada Simultaneously.

As of Tuesday morning (12/22/2020), the Constitutional Court has received 124 applications for Dispute Over the Results of Regional Head Election (PHPKada) in 2020, consisting of 71 online applications (simpel.mkri.id) and 53 offline applications. Of the 124 applications, 110 applications were submitted by candidate pairs of regents and deputy regents; 13 applications submitted by candidate pairs for mayor and deputy mayor; as well as one application submitted by the candidate pairs for governor and deputy governor. Case developments can be accessed on the Constitutional Court of Republic of Indonesia (MKRI) website.

Poll with Problem

The Constitutional Court accepted a request/application for dispute over the results of regional head elections (PHP Kada) for the Regent of Lamongan Regency, East Java. The application was submitted by Candidate Pair of Regent of Lamongan Regency Number

1 Suhandoyo and Astiti Suwarni. Regginaldo Sultan as the Petitioner's attorney submitted the application directly to the Registration section in the Ground Floor Hall of the Constitutional Court Building on Monday (12/21/2020).

The appellant questioned the procedures for levying counts and recapitulation starting from TPS in stages. The problem was related to the number of ballots at the TPS which were in accordance with the rules, namely the number of votes in accordance with the DPT plus 2.5%, but we found that 721 polling stations had problems.

There were allegations of fraud that should be the KPU's obligation to correct them before voting. The Petitioners consider that there was an inflation of votes or a reduction in the votes of one of the candidate pairs. The appellant expected that the Court can provide an opportunity to prove arguments, especially regarding the number of ballots.

On the same day, the Constitutional Court also received a PHP (Dispute Over the Results) application for the Regent of Fakfak Regency in 2020. Applications were submitted offline by Candidate

The incumbent's attorney Danny Missy-Imran Lolory, candidate pair number 2 for the Regional Head Election of West Halmahera Regency, Army Mulyanto, registered a lawsuit for the Dispute Case for Election Results of West Halmahera Regent, Monday (22/12/2020) Public Relations of the Constitutional Court: Ilham WM.

Pair Number 1 Samaun Dahlan and Clifford H Ndadarmana. The Petitioner lost the votes of candidate pair Number 2 Untung Tamsil and Yohana Dina Hindom.

After the announcement of the KPU (General Election Commissions) on December 17, the Petitioner looked for information and found that there was a DKPP (Honorary Council of the General Election Organizer) Decision issued on December 16, 2020. The decision came out a day before the KPU's decision regarding the complaint against Bawaslu who was considered negligent in the process of verifying the pair of candidates. In the independent nomination process, candidate pair No. 2 who was an independent candidate is declared ineligible because of the support for multiple ID cards.

Based on the statement of appellant, Bawaslu (Election Supervisory Agency) has sent a letter of appeal



Duke Arie, principal attorney Rustam Akili, a candidate for Regent of Regional Head Election for Gorontalo Regency, gave a statement while registering an application for a dispute over the results of the Gorontalo District regional election, Friday (12/18/2020).

twice for re-validation. However, the Respondent (KPU) still passed candidate pair No. 2 even though it did not meet the requirements. On the basis of this DKPP decision, the appellant sought justice in the Constitutional Court.

On the same day, the candidate pair for Regent of West Halmahera Regency Number 2 Danny Missy and Imran Lolory through the Petitioners' attorney, Army Mulyanto submitted a Dispute Over the Results of Regional Head Election (PHPKada) application. Applications were submitted directly to the Registration section in the Ground Floor Hall of the Constitutional Court Building.

The appellant in the lawsuit conveyed the fraud of the 2020 West Halmahera Regent election that was structured, systematic and massive (TSM). There were allegations that the local KPU (General Election Commissions) and Bawaslu (Election Supervisory Agency) were not neutral as election organizers and supervisors. The appellant found that there were many DPPh (Move Voter List) and DPTb (Additional Voters List) and it was quite massive when heading to the holding of the last December 9 election which used the basis of e-KTP/electronic ID Card.

In addition, in 6 districts in West Halmahera DPC, the appellant found that many voters used e-KTP that did not match their domicile. Besides, in the field, it was found facts indications of fraud and non-neutrality in favor of one of the pairs of candidates.

The Neutrality of the Administrators

The Constitutional Court (MK) received a number of registrations for cases of dispute over the results of the 2020 Governor, Regent and Mayor Election (PHPKada 2020), on Friday (12/18/2020), that were registered directly by regional head candidate pairs or their legal team.

In general, the problems raised by the appellant were the matter of neutrality of the organizers, vote marking, mobilization of voters, and the implementation of the Election Supervisory Board (Bawaslu) recommendations by the organizers of the General Election Commission (KPU), that affected the votes acquired by each pair of candidates.

As stated by Mudarwan Yusuf, the attorney for candidate pair number two Gusril Pausi-Medi Yuliardi, who

was the incumbent in the election of the Regent-Deputy Regent of Kaur Regency, Bengkulu Province, the appellant said the organizers had not been neutral in the Regional Head Election of Kaur Regency, among other things obstructing the process of submitting KPU decrees concerning the determination of the results of the votes acquired by the candidate pairs.

According to Mudarwan, his party had asked for an official document from the Kaur Regency General Election Commission (KPU) regarding the determination of the vote acquisition results, but the organizers of the document had not been submitted. Mudarwan assessed that this action was an attempt by the organizers to prevent the applicant from submitting an application to the Court.

In addition, Mudarwan revealed that other pairs of candidates had mobilized voters from outside Kaur regency. Mudarwan added, apart from mobilizing voters, there was also an improper use of voting rights, in which many voters had died but were used to elect candidate pair number one.

At the same time, the Constitutional Court also accepted the registration of a dispute over the results of the regional elections for Gorontalo Regency, Gorontalo Province. The application was submitted by candidate pair number four Rustam Akili-Dicky Gobel. Rustam, who came immediately accompanied by his attorney Duke Arie, said that the KPU was not neutral in the Gorontalo District elections.

According to Rustam, General Election Commission (KPU) did not

implement the KPU's recommendation to disqualify the Nelson Pomalingo-Hendra Hemeto candidate pair. Rustam added that other fraud that occurred in the Gorontalo District elections included the mobilization of the State Civil Apparatus by the incumbent, money politics, and vote mark-ups. Besides the pair Rustam Akili-Diki Gobel, the Gorontalo district election was also questioned by the candidate pair Tonny S. Junus-Daryatno Gobel.

Objections to the General Election Commission (KPU) Stipulation

The Constitutional Court (MK) accepted the lawsuit for Candidate Pair Number 2 Denny Indrayana and Difriadi against the results of the 2020 South Kalimantan (South Kalimantan) Governor Election on Tuesday (22/12/2020). In his application uploaded online through the MKRI website, candidate pair number 2 objected to the decision of the South Kalimantan Provincial KPU Number 134 / PL.02.6-Kpt / 63 / Prov / XII / 2020

concerning the Determination of the Recapitulation of Vote Count Results for the Election of the Governor and Deputy Governor South Kalimantan in 2020 dated 18 December which determined Serial Number 1 Paslon Sahbirin Noor and Muhidin as the winner of the regional election. The results of the vote acquisition show that candidate pair number 2 won 843,695 votes, while candidate pair number 1 won 851,822 votes.

There were a number of 8,127 difference in votes between the Appellant and Sahbirin Noor and Muhidin as the pair with the most votes. However, in the lawsuit submitted by candidate pair number 2, there are several things that violate the principles of election as emphasized in Article 22E paragraph (1) of the 1945 Constitution, namely "Luber (direct, general, free, confidential)" and "Jurdil (fair and square)".

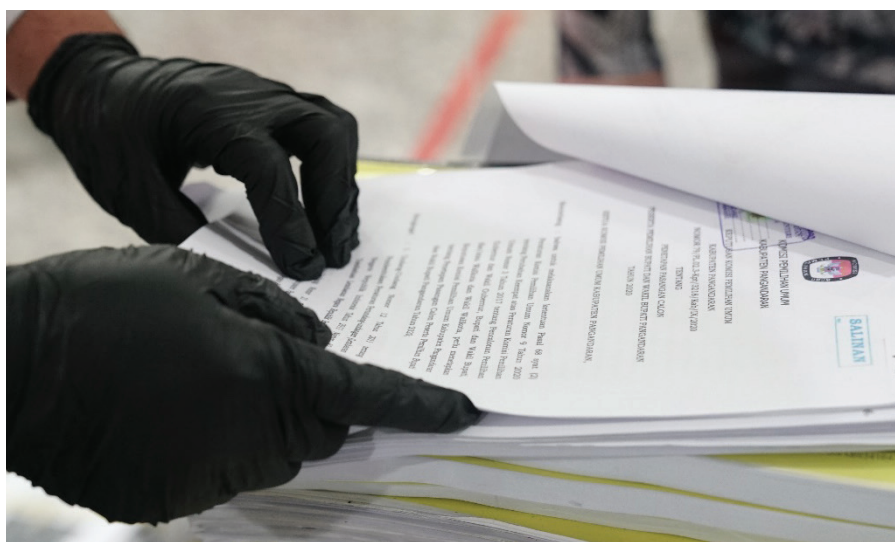
Furthermore, the appellant stated that if the Election for the Governor of South Kalimantan was carried out in accordance with these principles, then candidate pair number 1 should have been canceled from his candidacy. The appellant argued, in the implementation

of the South Kalimantan governor election, there was fraud, threats and intimidation in several areas in South Kalimantan such as in Benuang, Tapun, Hatungun Regencies, fraud in Banjar Regency, Barito Kuala Regency, as well as fraud and violations that led to additional votes for the candidate pairs number 1 in South Banjarmasin Regency.

In his application, Denny mentioned that before the process, during the campaign stage, on the voting day and thereafter; various modes of fraud and electoral fraud were carried out in a structured, systematic and massive manner. Besides, he also argued that there was the deployment of government employees as well as the diversion of the central and regional budgets - including the social assistance budget for the distribution of basic necessities.

Denny also argued that local government activities and programs were used for covert campaigns, through various public relations programs. Including the tagline "*Bergerak*" which was amazingly disseminated throughout South Kalimantan, through various media, which in turn helped socialize the incumbent Governor Sahbirin Noor. Mainly because the same tagline was later used by Sahbirin Noor - Muhidin. "*Move/Bergerak*" is a word that is also embedded in all campaign tools for Paslon No. 1.

"Because the mobile tagline has been campaigned annually by the South Kalimantan Provincial Government, it means that Paslon 1 has been campaigning for "*Move*" for a long time, using facilities and state budgets. Money politics, although it is reported to be decreasing, it still exists, for example through the cooperative mode (one package) payment with candidates for the regent or mayor. There were areas that are not free to make choices, in such areas, our witnesses were threatened not to attend, and our votes



were not there at all, or if we get votes, they are very small," as quoted from the petition filed under APPP Number 127/PAN. MK/AP3/12/2020.

More Than 100% Voters

After registering online on Friday (12/18/2020), the candidate pair for Regent and Deputy Regent of South Labuhanbatu Number 3 Hasnah Harahap and Kholil Jufri Harahap submitted an application correction and submitted the application file directly to the case registration desk of Dispute Over the Results of Regional Head Election 2020 on Wednesday (12/23/2020).

Pris Madani as one of the appellant's attorneys revealed that the submission of revisions to the petition was related to the material strengthening of the argument for the cancellation of the Determination of the Recapitulation of Vote Acquisition Results and Election Results of the 2020 Regent and Deputy Regent of South Labuhanbatu on December 16, 2020. On one of the reasons for the lawsuit, his party found several polls with voter turnout reached 100% and even reached 101%. Regarding the level of voter participation, Pris said that this required a review of the timeframe in the next period because it was related to the potential for public enthusiasm in casting their votes.

"For the average, the percentage of voters in the district level was only 70%, but from those found in the field the lowest value reaches 87%," revealed Pris to the MK Media crew in the Ground Floor Hall of the Constitutional Court Building.

In addition, Pris also said that his party found in the final voter list (DPT). It showed that several residents who did not have an e-KTP/electronic ID Card were able to vote. In fact, continued Pris, the requirement for voters to vote must have an e-KTP. If the relevant



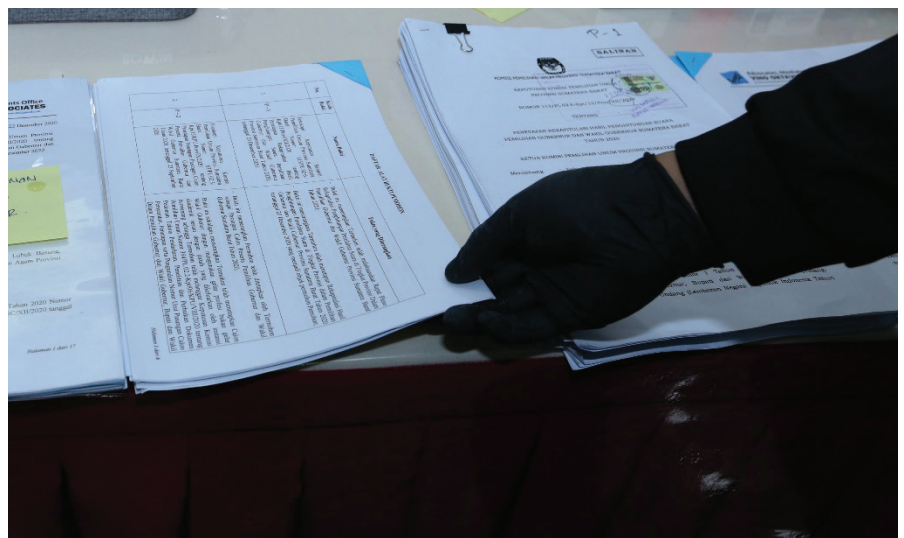
voter does not have an e-KTP, the voter should only be able to do the follow-up voting one hour after the close of the normal voting time period. (Sri Pujianti / Lulu Anjarsari)

Pris Madani, the appellant's attorney while giving a statement to the MK (Constitutional Court) Media crew in the Ground Floor Hall of the MK Building. Photo: Public Relations/Teguh.

Violating The Candidates' Health Examination Standards

Candidate Pair (Paslon) for the Governor and Deputy Governor of

West Sumatra Number 4 Mahyeldi Ansharullah and Audy Jinaldy were declared the winners in the 2020 West Sumatra Governor Election (Pilgub). Yet, the West Sumatra Governor Candidate Candidate Number 2 Nasrul Abit and Indra Catri rejected the victory due to alleged fraud, so they sued the West



Document of Application for Dispute Result of the Election of the Governor and Deputy Governor of West Sumatra in 2020, Wednesday (12/23) in the Hall of the Constitutional Court Building. Photo: Public Relations/Ifa.

Sumatra General Election Commission (KPU) to the Constitutional Court (MK) on Wednesday (23/12/2020) afternoon.

Based on Nasrul Abit and Indra Catri (Appellant), since the nomination stage for the Candidate Candidate for Governor and Deputy Governor of West Sumatra in 2020, the West Sumatra KPU as the Respondent has committed serious and extraordinary fraud, especially in examining the health of the Candidate Pair for Governor and Deputy Governor, Regent and Deputy Regent and/or Mayor to fulfill the requirements of a candidate "physically, spiritually capable and free from narcotics abuse" as regulated in Article 7 paragraph (2) letter f of Law No. 10 year 2016 which is a requirement for the candidates for Governor and Deputy Governor, Candidates for Regent and Deputy Regent as well as Candidates for Mayor and Deputy Mayor of 2020.

The appellant emphasized that the Respondent had openly violated the Decree of the Chairman of KPU RI Number 412/PL.02.2-Kpt/06/KPU/IX2020 concerning Technical Guidelines for Physical and Spiritual Ability Standards and Standards for Physical, Spiritual and Narcotics Abuse-Free Health Examination in Governor Election and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy Mayors in 2020. This has resulted in the publication of the Health Check Results of Candidate Pair for Governor and Deputy Governor, Regent and Deputy Regent and/or Mayor issued by unauthorized institutions, namely the Management Indonesian Doctors Association (IDI) West Sumatra region. Even though the authority is the hospital appointed by the Respondent, in this case RSUP M. Jamil Padang, which should establish a Health Check Team and issue the Health Check Results for Candidate Pairs for Governor and Deputy Governor, Regent and Deputy Regent and/or Mayor and

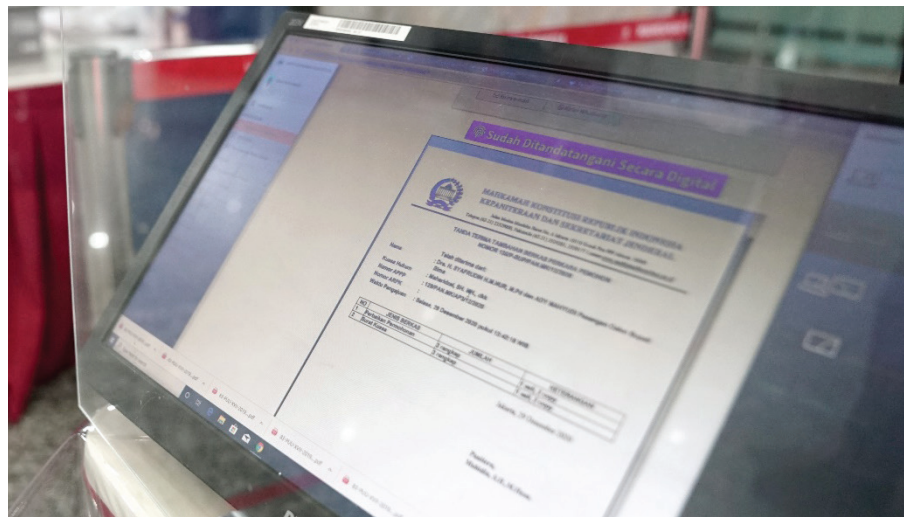
Deputy Mayor. Therefore, according to the Petitioner, the results of the medical examination issued by the West Sumatra IDI Management were legally flawed.

Besides, during the West Sumatra Governor Election, it was found that there were voters who had ID cards outside the region who exercised their voting rights, as well as voters who used the A5 KWK form that should have received one vote, but in fact received two votes. Furthermore, the Respondent had eliminated the voting rights of 28 voters consisting of two

KPU also recorded a total number of voters as many as 2,313 278 people or about 61.68 percent of the total voters in the area. The total number of valid votes was 2,241,292 or 96.89 percent and the number of invalid votes was 71,986 or 3.11 percent. (Nano Tresna Arfana/Nur R.)

Suspected of Having Committed Violation

Candidate Pair (Paslon) for Regent and Deputy Regent of Bima Regency



Receipt of Correction of Digital Applications submitted by Candidate Pairs (Paslon) for the Regent and Deputy Regent of Bima Regency Number 2 Syafrudin H.M. Nur and Ady Mahyudi on Tuesday (29/12/2020). Photo: Public Relation/Teguh.

Covid 19 patients and 26 hospitalized patients at Pariaman Regional Hospital without voting at the Pariaman Regional Hospital, so that the Respondent's violation had a significant effect on the candidate pairs' votes and the number of voters who used them. voting rights in the West Sumatra Governor Election in 2020.

Previously, the West Sumatra KPU determined that the pair Mahyeldi Ansharullah and Audy Joinaldy won the most votes in the 2020 West Sumatra Pilgub with 726,853 votes (32.43 percent). The vote acquisition was 47,784 votes ahead of the Nasrul Abit and Indra Catri pairs. West Sumatra

Number 2 Syafrudin H.M. Nur and Ady Mahyudi returned to the hall of the Constitutional Court (MK) building to correct their petition which was made on 19 December 2020. The revision of candidate number 2 was submitted on Tuesday (29/12/2020). The two candidate pairs corrected the reasons for improvement related to violations that occurred before and during the voting process for the 2020



The Constitutional Court officials examined the application Documents for the 2020 Regional Head Election Disputes case, Wednesday (6/1) at the Constitutional Court Building. Photo: Public Relations.

Bima Regency Regional Head Election (Pilkada).

Furthermore, in the revised document, it was explained that the Bima Regency General Election Commissions (KPU) as the Respondent was alleged to have acted non-neutral by utilizing the process of making the Final Voters List (DPT) for the benefit of Candidate Candidates Number 3 Indah Dhamayanti Putri and Dahlan M. Noer who were appointed as winning candidate pairs in total. total votes were 130,963 votes or as much as 44.43%.

In addition, candidate pair number 2 suspected that the KPU of Bima Regency has deliberately committed fraud by not including the results of updating voter data obtained from RT (neighborhood) and RW (hamlet into the DPT. It was considered to have resulted in losses for many local residents who lost the opportunity to vote because their names were not registered on the DPT list.

Another fraud allegedly committed by the KPU as the Respondent, as a result of deliberately not including updating voter data, namely the number of names of residents who have died

and underage residents who have entered the DPT list in Bima Regional Election in 2020.

Parole Status

The election of the regional head of Boven Digoel Regency in 2020 resulted in disputes in the Constitutional Court (MK). Candidate Pair (Paslon) Number 3 Martinus Wagi and Isak Bangri (Martinus-Isak) through their team of attorneys submitted an application for the dispute over the results of the Regional Head Election (PHP Kada) of Boven Digoel Regency to the Constitutional Court on Wednesday (6/1/2021) at 07:29 WIB. The Registrar's Office of the Court recorded this petition in the Deed of Petitioning for Petitioners Number 136/PAN.MK/ AP3/01/2021

Paslon Martinus-Isak, who received 9,156 votes, expressed his objection to the Boven Digoel Regency Election Commission that stipulated Candidate Candidates Number 4 Yusak Yaluwo and Yakob Yeremba (Yusak-Yakob) who received 16,319 votes. Paslon Martinus-Isak in his petition questioned the process of nominating the Yusak-Yacob

Paslon being structured, systematic and massive (TSM) throughout the process of holding the Election of Regent and Deputy Regent Candidates in Boven Digoel Regency.

Martinus-Isak in the petition also revealed that it was already well known to the general public, especially the people of Boven Digoel that in 2013 Candidate for Regent Number 4 (Yusak Yaluwo) was sentenced to imprisonment for 4 (four) years and 6 (six) months a fine of IDR. 200,000,000 (two hundred million rupiah) based on a Judicial Review (PK) Decision by the Supreme Court.

The provisions in Article 4 paragraph (1) letter f PKPU (General Election Commission Regulations) No. 1 Year 2020 concerning the Third Amendment to the General Election Commission Regulation Number 3 of 2017 concerning the Nominations for the Elections for Governor and Deputy Governor, Regent and Deputy Regent, and/or Mayor and Deputy Mayor stipulates that one of the requirements is to become a candidate for governor and deputy governor, regent and deputy regent, and/or mayor and deputy mayor are never convicted on the basis of a court decision that has obtained permanent legal force for committing a criminal act which is punishable by imprisonment of 5 (five) years or more. Except for a convict who commits a crime of negligence or a political crime in the sense of an act which is declared a criminal offense in positive law, only because the perpetrator has a different political view from the regime in power.

Still according to Martinus-Isak, observing the Judicial review Decision No. 127 PK/ Pid.Sus/2012 which was read out on 11 September 2013. It has permanent legal force, then Yusak Yaluwo has been serving a prison sentence since 2013, then underwent

a period of guidance (parole) since 8 August 2014 and ended 26 May 2017. Yusak Yaluwo was free purely on May 26, 2017, so that until 2020, there has only been a 3 years gap, it has not reached the 5 years' time lag as stipulated in Article 4 paragraph (2a) PKPU No. 1 of 2020. Thus, Yusak Yaluwo could only register as a Pilkada participant in 2022. The parole as undertaken by Yusak Yaluwo on August 8, 2014 has not positioned himself as a former convict. Thus, it is not right if Yusak Yaluwo thinks he has passed a period of 5 (five) years and has the courage to register himself as a participant in the 2020 Regional Election of Boven Digoel Regency.

Based on Martinus-Isak, a person who is undergoing parole can't be considered as former convict because. First, it is because at any time he can return to prison when he violates the conditional free disciplinary assessment. Second, it is mandatory to report to law enforcement officials. Third, it is still tied to administrative and technical matters at the Directorate General of Corrections at the Ministry of Law and Human Rights. Fourth, according to Article 1 Point 32 of Law no. 8 Year 1981 (KUHAP). It states that a convicted person is someone who is convicted based on a court decision that has permanent legal force so that the former convict is someone who has completed all crimes based on a court decision that has permanent legal force.

Revision of Application for Regional Election Disputes

Candidates for Regent of Padang Pariaman Regency

The Constitutional Court (MK) received a number of revisions to applications for disputes over the results



Dhifla Wiyani, attorney for the Tri Suryadi-Taslim pair, the candidate pair for the regional election of Padang Pariaman Regency, West Sumatra, on Monday (12/28/2020) night. Public Relations Photo/Hermanto.

of the 2020 elections for governors, regents and mayors, which were submitted by a team of attorneys for candidate pairs from various regions, Monday night (12/28/2020).

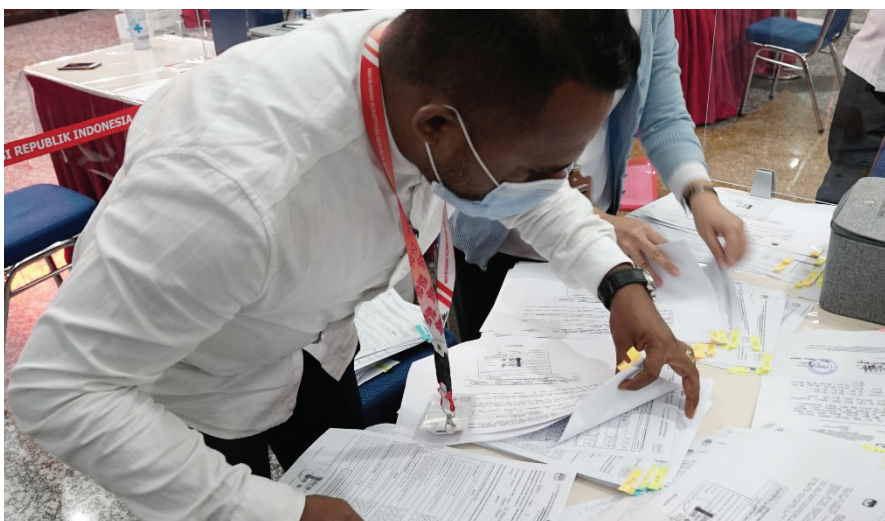
Dhifla Wiyani, attorney for the Tri Suryadi-Taslim pair, a candidate pair for the regional election of Padang Pariaman, West Sumatra, on Monday night submitted a number of files of evidence to the court's case admissions

department, in the form of documents, photos, and video recordings, to support the arguments. the appellant's lawsuit regarding the alleged fraud committed by another pair of candidates in the Padang Pariaman regional election.

Based on Dhifla, the violations that occurred in the Padang Pariaman regional election included the deployment of the State Civil Apparatus (ASN) to support



The Constitutional Court (MK) accepted the revised lawsuit for the dispute over the results of the Regional Head Election (PHP Kada) for the candidate pair for Jambi Governor Cel Endre-Ratu Munawaroh, on Tuesday night (12/29).



Novi Manaban as the Appellant's attorney completed the application documents, Tuesday (5/1) at the Constitutional Court Building. Photo: Public Relations/Teguh.

certain candidate pairs. Besides, the appellant also argued that the misuse of Direct Cash Assistance (BLT), that was a program of the central government, was claimed by other pairs of candidates as their work program.

Furthermore, the applicant who submitted the application online revealed that it was greatly helped by the online application submission facility provided by the Constitutional Court. According to Dhifla, online case registration can make it easier for parties in the regions, especially in meeting the deadline for filing a case three working days after the General Election Commission's determination.

Dhifla also appreciated the service of the Constitutional Court Election Result Dispute (PHPKada) task force that served the petitioners until evening. According to him, the services provided were very good, and the officers who provide services are communicative enough. Thus, it eases appellant to apply file cases

Candidate Pair for Governor of Jambi

The Constitutional Court (MK) accepted the revised application for

Regional Head Election Result Dispute (PHP Kada) in the 2020 election for governors, regents and mayors, on Tuesday night (12/29).. The revision of the petition this time came from the Candidate Pair for the Governor of Central Kalimantan Number 1, Ben Ibrahim S. Bahat – Ujang Iskandar. On the same day, Candidate Pair for the Governor of Jambi Serial Number 1, Cek Endre – Ratu Munawaroh also submitted a revised application.

The attorney for the Ben Ibrahim S. Bahat-Ujang Iskandar pair, Hermawanto, said that the editorial revision of the lawsuit. His party also included a number of evidences to support the arguments of the lawsuit regarding violations committed by other pairs of candidates.

"The improvements we are proposing at this time are only editorial, only corrections of writings that show that there was indeed a very systematic fraud or crime that occurred in the Central Kalimantan Regional Head Election process. It was ignored by the Central Kalimantan KPUD (Regional General Election Commissions). Thus, at the Constitutional Court we have a

lot of hope so that justice is upheld and we together guard this democracy for the sake of Indonesian democracy in the future," said Hermawanto.

Meanwhile, the attorney for the Candidate Pair for the Governor of Jambi, Cek Endre-Ratu Munawaroh, Elfano Eneilmy revealed that they had reduced the arguments lawsuit for. This was adjusted to the incidence of fraud that occurred during the election. Their party also added 279 evidences.

"In revising this application, we have reduced the argument for the petition. We had to adjust to the violations that occur there. Besides, we also added evidence, which at the first time we submitted only 5 pieces of evidence, but now we add 279 evidences," he said in an interview with the media crew. (Panji Erawan/Nur R.)

Regent Candidate Pair of East Seram

Candidate Pair (Paslon) for the Regent and Deputy Regent of East Seram in 2020 Fachri Husni Alkatiri-Arobi Kelian submitted a revision to the application for dispute over the results of regional head elections (PHP Kada). Novi Manaban, as the appellant's attorney stated regarding the improvements made related to the addition of evidence of alleged fraud in the election process, revision of the draft of the application and revision of the power of attorney.

The Candidate Number 2 East Seram Regency in 2020 received 20,939 votes and they were in second position after Candidate Number 1 in the namely Abd. Mukti Keliobas and Idris Rumalutur who received 31,100 votes. Furthermore, Novi stated that the defeat of the Candidate Candidate Number 2 was allegedly caused by the existence of money politics that was carried out in a structured, systematic and massive manner and allegedly the deployment of the State Civil Apparatus

/government employee (ASN) that was allegedly carried out by the Head of the Service and the Regent. These violations occurred in 11 sub-districts in East Seram District.

In the principal of his application, the appellant stated that another cause of the loss of Candidate Number 2, namely the alleged fraud in the Additional Voters List (DPTB) whose number did not match the number of ballots. The allegation of fraud occurred in 11 districts in East Seram Regency, including in Gorom District, East Gorom District, Bula District, East Siritauan Wida District, Teluk Waru District, Wakte District, East Seram District, Kilmury District, Bula District West, Tutuk Tolu District, and Pulau Panjang District. In closing, Novi Manaban expressed his hope that the Constitutional Court could pass the Candidate Application Number 2 to the next trial stage. (Siti Rosmalina Nurhayati/Melisa Fitria Dini/Lulu Anjarsari)

Regent Candidate Pair of Boven Digoel

Candidate Pair (Paslon) Number 3 Martinus Wagi and Isak Bangri (Martinus-Isak) submitted a revision to the Boven Digoel Regency Regional Head Election Result Dispute (PHP Kada) application for 2020. Semy Benyamin A. Latunussa, as the appellant's attorney stated regarding the improvements which carried out related to the addition of evidence and chronology of the petition submitted directly to the acceptance section of the Constitutional Court (MK) petition on Friday (1/8/2021).

At the revision stage of application, the Petitioner has revised the previous application which was deemed incomplete within the given three-day grace period. In points of improvement, the appellant added a letter that must be included in his

petition regarding a letter issued by the District Court stating that he was not a convicted person, even though it was already known to the general public, especially the people of Boven Digoel, that in 2013 the Candidate for Regent Number 4 (Yusak Yaluwo) was once sentenced to imprisonment for 4 (four) years and 6 (six) months and a fine of Rp. 200,000,000 (two hundred million rupiah) based on a Judicial Review (PK) Decision by the Supreme Court.

In addition, the appellant also added jurisprudence which is the Constitutional Court Decision No.56/PUU-XVII/2019 concerning regional head candidates who were former convicts, namely having to wait for a 5-year pause after passing or serving a prison sentence based on an *inkracht* decision.

Furthermore, Semy revealed that the Candidate for Regent from pair number 4 is a former convict of a corruption case who has not passed a 5 years gap. Thus, he should not have been allowed to register as a candidate for district head. Referring to the provisions in Article 4 paragraph (1) letter f PKPU (General Election Commissions Regulation) No. 1 of 2020 concerning the Third Amendment to the General Election Commission Regulation Number 3 of 2017 concerning the Nominations for the Elections for Governor and Deputy Governor, Regent and Deputy Regent, and/or Mayor and Deputy Mayor stipulates that one of the requirements is to become a candidate for governor and deputy governor, regent and deputy The regent, and/or mayor and deputy mayor are never convicted on the basis of a court decision that has obtained permanent legal force for committing a criminal act which is punishable by imprisonment of 5 (five) years or more. Except for a convict who commits a crime of negligence or a political crime in the

sense of an act which is declared a criminal offense in positive law, only because the perpetrator has a different political view from the regime in power.

Regent and Deputy Regent candidate pair Martinus Wagi-Isak Bangri who received 9,156 votes submitted an application to the Constitutional Court after losing to candidate pair number 4 Yusak Yaluwo and Yakob Yeremba (Yusak-Yakob) who received 16,319 votes and was determined by the KPU (General Election Commissions) as the winner in the regional head election of Boven Regency Digoel Year 2020.

"For us, this is an illegal defeat, because we were defeated by a candidate who was actually not allowed to participate in the general election because the candidate pair was not a legitimate partner," revealed Semy.

In their application, the appellant did not question the number of votes difference or regulations regarding the threshold value, but the Appellant questioned the verification process for candidate pairs who could participate in the registration and were secured by Boven Digoel and Bawaslu KPU until they were determined as winners. The Appellant also asked the Constitutional Court to cancel the decision and conduct a comprehensive re-voting (PSU) in Boven Digoel without including Candidate Pair number 4. The Petitioner considers the process of nominating the Yusak-Yacob Paslon to be carried out in a structured, systematic and massive manner (TSM) as long as the process of organizing the Election of Candidates for Regent and Deputy Regent in Boven Digoel Regency. ■

PANJI ERAWAN/SRI PUJIANI/ILHAM M W/FUAD
SUBHAN/SITI ROSMALINA NURHAYATI/
MELISA FITRIA DINI



Pancasila and the Constitution Education Center Wins the Corruption-Free Zone Integrity Award

SECRETARY General of the Constitutional Court (Sekjen MK) M. Guntur Hamzah attended the Appreciation and Awarding of the Integrity Zone Towards a Corruption-Free Area (WBK) and a Clean and Serving Bureaucratic Area (WBBM) to make Indonesia free from corruption. This activity was organized by the Ministry of Administrative Reform and Bureaucratic Reform (KemenPANRB), on Monday (12/21/2020) virtually.

In the event, the Pancasila and Constitution Education Center received an award for participation as a service work unit with the title of Free from Corruption (WBK) in 2020. For the Constitutional Court, especially the Pusdik MK (Education Center of

Constitutional Court), to obtain this award requires a commitment built by the entire team. Without commitment, this award is not easy to obtain.

For information, the Appreciation and Awarding of Integrity Zones Towards Corruption-Free Areas (WBK) and Clean and Serving Bureaucratic Areas (WBBM) are annual event. This activity is held to commemorate World Anti-Corruption Day (Hakordia) on December 9.

In 2020, 3,691 work units were proposed to the national assessment team from 70 ministries, 20 provincial governments and 161 city district governments. From 3,691 who made it to the advanced evaluation stage, namely 2,570 work units.

Secretary General of the Constitutional Court, M Guntur Hamzah with Head of Education and Culture of the Constitutional Court Imam Margono received an award from the Ministry of State Apparatus Empowerment and Bureaucratic Reform, Monday (12/21) virtually at the Constitutional Court Building. Photo: Public Relations/Bayu.

From 2,570 work units, those that managed to pass were only 763 work units. 681 service work units were designated as Corruption-Free Areas (WBK) and 82 work units were designated as WBBM spread across 22 ministries, 5 state institutions, 4 ministerial-level institutions, 19 non-ministerial government agencies, 2 non-structural institutions, 7 provincial governments, 9 city governments and 30 district governments. (Utami Argawati/Nur R.)



Dispute Over the Results of Regional Head Election (PHPKada) Task Force 2020 Inauguration

The Secretary General of the Constitutional Court M. Guntur Hamzah read out a summons for the Task Force to all employees for Handling Dispute Cases on the Results of the 2020 Governor, Regent and Mayor Election, Tuesday (12/22) at the Constitutional Court Building. Photo: Public Relations/Ifa.

FACING Disputes over the 2020 Regional Head Election Results (PHPKada 2020), the Constitutional Court (MK) held an oath of support for the handling of disputes over the 2020 Regional Head Election Results on Tuesday (12/22/2020) in the Meeting Room Floor 11 The Constitutional Court Building.

Based on excerpts from the Decree of the Secretary General of the Constitutional Court Number 312 of 2020 dated 6 December 2020 concerning the Task Force, all employees included in the task force will carry out their duties from 10 December 2020 to 10 April 2021 in order to support the Handling of Disputes on Election Results of Governors, Regents, and the Mayor of 2020/2021.

In his remarks, the Secretary General of the Constitutional Court M. Guntur Hamzah emphasized the need for employees, especially those who have sworn the task force's oath to maintain strict health protocols in carrying out work amid the Covid-19 pandemic.

"By maintaining health protocols, God willing, we can avoid Covid-19. Like it or not, we certainly carry out our duties with the health protocol alone, our optimism is to carry out our work in the midst of a pandemic," he added.

Next, Guntur continued, in order to maintain strict health protocols, when the trial later all parties entering the Court's courtroom must perform an antigen swab. If any party who wants to have a hearing does not have a certificate of having carried out an

antigen swab, the MK will provide it on the grounds of the MK Building.

"This is because the parties in court will face the Panel of Justices, so the health protocol must be stricter," said Guntur in front of around 280 employees and employees who attended the event both online and offline.

In addition, Guntur also revealed that there is a need for quality control between coordinators. Thus, there is no blaming each other if there is a problem. Regarding integrity, he hopes that events that have happened before will not happen again so that everyone in the Constitutional Court can maintain integrity, discipline, dedication and professionalism. (*) (Utami Argawati/Lulu Anjarsari)

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