

KONSTITUSI

WHEN REGENT CANDIDATE OWNS MULTIPLE PASSPORTS



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Working in the month of Ramadan amid the Covid-19 pandemic situation is indeed not an easy thing to do. This situation requires the employees of the Constitutional Court to always apply health protocols as well as possible, as well as to maintain professionalism, discipline, and work integrity.

Hearings continue to be conducted by the Constitutional Court (MK), both offline and online. Constitutional Justices work as much as possible, starting from the preliminary to the case decision. Meanwhile, the Court's Registrar's Office is in charge of preparing hearing materials from the Constitutional Court's researchers to become literature material in dealing with constitutional cases and handling disputes over election results. Meanwhile, the Secretary-General of the Constitutional Court always provides policies for employees in various situations.

Then the Public Relations and Protocol of the Constitutional Court through its staff consistently prepare various materials to be broadcast to the public. The Court's Minutes Team was also very helpful in publishing materials and information needed by justice seekers. Including the Media of the Constitutional Court, which includes writers, photographers, graphic designers, editors, and control rooms, they are also at the forefront of broadcasting actual information related to the development of the Constitutional Court internally and externally.

In April 2021, the Main Report of Constitution Magazine raised a theme related to issues that are still being discussed and phenomenal enough to be reported on, which is the case of the Sabu Rajjua Regent's Election Results Dispute (PHP) (Case 133, 134, 135/PHP.BUP-XIX/2021). As is known, the Sabu Rajjua Pemilihan Kepala Daerah was petitioned by several Petitioners because it was known that there was dual citizenship of the candidate for regent who won the regional head election.

Moreover, as usual, we present special rubrics for Constitution Magazine. This is the introduction from the editor. Finally, we wish you happy reading!



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6

MAIN REPORT

WHEN FOREIGN CITIZENS WIN THE ELECTION OF REGIONAL HEAD

For the first time in the history of regional head elections (Pilkada) in Indonesia, an elected regional head turned out to have dual citizenship. The elected Sabu Raijua Regent has a dual citizenship: Indonesia and the United States.

22

ACTION



EDITORIAL GREETINGS **1**

EDITORIAL **3**

ACTION **18**

FLASH ACTION **32**

UNDERSTANDING THE QUESTIONS OF THE CAMPUS WORLD TO THE MECHANISM OF REMOTE HEARINGS

THANKFUL FOR THE COURT AND PETITIONER

The concerns of some people in Sabu Raijua Regency, especially the pairs of candidates for regent-deputy regent in the 2020 Sabu Raijua Pemilihan Kepala Daerah, were finally poured out to the Constitutional Court (MK). The origin of the concern was that the winner of the most votes in the regional head election was strongly suspected of being a citizen of the United States (US). This became more certain after the completion of the recapitulation stage of the vote count results. That concern was then brought to the Court.

A total of 3 (three) petitions were submitted to the Constitutional Court regarding the Sabu Raijua Regional Head Election. At first, the Petitioners seemed a little hesitant to take this case to the Constitutional Court. This was because the momentum for submitting the petition was far beyond the time limit. They did not want to question the results of the determination of the vote count in the regional head elections as regulated in the laws and regulations. The most troubling thing once again was that the elected candidate for the Regional Head Election of Sabu Raijua is a United States (US) citizen. For them, even if formally-normatively all institutional doors have been closed, at least their concerns have been heard by the Court and the public.

The expectations of the applicants were perfect. Instead of closing the door, the Constitutional Court spread its arms wide on the matter. "There are specific problems that have occurred in the Sabu Raijua Regional Head Election," said the Constitutional Court. There was an unprecedented legal event and it had not been anticipated in the legislation. So, the Constitutional Court wanted to resolve legal issues at the Sabu Raijua Regional Head Election.

During the hearings, various facts were revealed. From the hearings, the Constitutional Court's decision was born which confirmed some interesting things. First, Orient Patriot Riwu Kore was proven to have a US passport which, within the limits of reasonable reasoning, was still attached to the status of a US citizen, so he did not meet the requirements of a citizen as regulated in Article 7 of Law 10/2016 to apply as a candidate for regent of Sabu Raijua.

Second, due to the status of Orient Patriot Riwu Kore as a US citizen at the time of registering as a candidate

for Regent, Orient's status as a candidate for Regent must be declared null and void by law. Because the Regional Head Election is designed as a contestation with participants in the form of pairs of candidates, violations committed by one of the candidate pairs will have legal consequences for the pair of candidates concerned.

Third, the cancellation of the Orient resulted in the vacancy of the first position in terms of the vote count. However, the Constitutional Court did not immediately put up the candidate pair that received the second most votes as the elected candidate pair. To reaffirm the legitimacy of the pair of

candidates who will later be elected and lead Sabu Raijua, a re-voting must be conducted by including two other pairs of candidates, without including Orient and his partner.

In the end, the Constitutional Court gave time for re-voting to be conducted no later than 60 (sixty) working days after the pronouncement of the Constitutional Court's Decision (15 April 2021). We are waiting for the results later, at least the Regional Head Elections are more democratic, without any citizenship issues.

From this case, two things deserved appreciation. First, the courage of the Petitioners who systematically mobilized the authority of the

Constitutional Court by bringing the case of the 'foreign regent' to the Court's hearing, even though the timing was outside the limits of the procedural law. Second, the Constitutional Court prudentially dared to break free from formal shackles to resolve specific legal problems for which there was no normative anticipation.

Imagine if these two things were not there or not done. Undoubtedly, it would be recorded in history, once in a district in Indonesia, there was a foreigner who ran for regent, and even won. Moreover, the terms and conditions are clear: pairs of candidates who register as candidates for regional head and deputy regional head must have the status of Indonesian citizens. Fortunately, there are them (the Petitioners). Fortunately, there is also a Constitutional Court. Both of them reaffirmed the rules of the contest for the nomination of the Regional Head Election: those who are not Indonesian citizens, please step aside. Greetings Constitution!





LES MISERABLES

ID.G. Palguna

“Not being heard is no reason for silence”

Victor Hugo, dalam *Les Misérables*



One day, in the car, on our family's homecoming journey, a radio station suddenly played the song The Stars. I immediately thought of the film *Les Misérables*—a film adapted from the novel of the same name that features the song in it. For me, *Les Misérables* is more than just a famous novel. The composition of the great French poet, Victor Hugo is part of the history of my life journey as a law student. *Les Misérables* appeared as a comprehensive examination material for the Philosophy of Law course when I took my doctoral program (S3) at the University of Indonesia. As if receiving a derivative of “curse” from the title of the novel, *Les Misérables* made us - the 2006 University of Indonesia Doctoral (S3) students - miserable because we had to be “locked up” on the Salemba Campus to solve this problem (and the comprehensive exam questions from the other courses) from 9 am to 5 am the following day.

First published in 1862, *Les Misérables* is hailed as one of the greatest novels of the 19th century.

This novel is not only photographing fragments of French history in the packaging of Paris' urban life but also provokes us to question the nature of law and justice which are intertwined with issues of romance, politics, morality, religion, even grace, and destiny. When reincarnated into a film form (2012), *Les Misérables* also reaped great success. Director Tom Hooper brought this novel to the big screen. Some big names involved in this film such as Hugh Jackman, Russell Crow, Anne Hathaway, and others. The result? The film received high acclaim from film critics. Three Golden Globe Awards were successfully won. Moreover, Collabro—the vocal group that sang *The Stars*, one of the songs that graced the film—had won the talent search contest in Britain, *Britain's Got Talent* in 2014.

Les Misérables tells the story of a poor farmer named Jean Valjean who spent 19 years in prison—five years for stealing bread for his starving sister and family and 14 years for trying to escape prison many times. When he was released from prison and wanted to stay at an inn, he was rejected because his “ID” was marked a former inmate. With anger and heartache, he slept on the streets. This incident deepened his revenge for all the injustices he had experienced in his life. Fortunately, in the the turmoil of suffering and misfortune, Valjean met Bishop Myriel (aka Monsignor Charles Francois-Bienvenu Myriel) who generously sheltered him. However, in the middle of the night, Valjean escaped while stealing the bishop's silver cutlery. Valjean was arrested by the police.

Bishop Myriel, instead of being angry, demanded that Valjean be released saying that the items were not stolen but that he gave them to Valjean. To further convince the police, Bishop Myriel even forced Valjean to bring two silver candlesticks as if Valjean had forgotten to bring the “gift”. The police eventually released Valjean. Bishop Myriel advised Valjean to use the money from the sale of these items as “capital” to become a good person. Valjean was shocked. Bishop Myriel not only sheltered him, but also taught and modeled the importance of the values of kindness, compassion, and empathy as the core foundation of morality in life. Valjean was determined to live as a good and honest person. However, a moral test soon confronted him. He was tempted to steal a gold coin from a 12-year-old boy named Petit Gervais. Aware of his determination to live a clean and honest life, he intended to return the gold coin, but after traveling around the city he could not find the child who owned the coin. Meanwhile, the theft was already reported. So, Valjean again became a fugitive from the police. Feeling guilty, he was forced to hide in anxiety because if caught he would be returned as a convict and employed in the ship's prison kitchen for his life as a punishment for repeat offenders or recidivists. He managed to escape from the police.

Years later it was told that Valjean had become a successful businessman. Moreover, Valjean – who had changed his name to Monsieur Madeleine – was elected Mayor of Montreuil-sur-Mer. One day, the mayor Madeleine saw a man named Fauchelevent pinned under a cartwheel and no one wanted

to help him even if they were paid. The mayor decided to help the man by crawling under the carriage and lifting him. The city's police inspector, Inspector Javert—who years before had been an aide to the guard at Bagne prison in Toulon, where Valjean was serving his sentence—was suspicious of the mayor's physical strength. In the memory of the police inspector, there was only one person who had that much physical strength, a prisoner named Jean Valjean. From then on, Inspector Javert began to suspect Mayor Madeleine's real identity.

Inspector Javert's second encounter with Mayor Madeleine alias Valjean was when the mayor forced Javert to release a woman named Fantine. Who was Fantine? She was a former employee at the Valjean company who was fired without his knowledge. Fantine had a daughter named Cosette, the result of Fantine's illicit relationship with a man named Felix Tolomyes—who left her, forcing Fantine to raise Cosette alone. Cosette was then entrusted to a cunning and deceitful innkeeper named Thenardiers. Instead of nurturing, the Thenardiers exploited Cosette by making her a forced laborer at the inn and "blackmailing" Fantine with requests for money as if the request was made by Cosette for living expenses. Fantine who lost her job eventually fell into a prostitute and became sickly. Once, she met a man named Bamatabois. This man harassed and abused Fantine in the streets, forcing Fantine to strike back. Inspector Javert arrested Fantine, who continued to plead for her to be released to provide for her child, but Javert instead sentenced her to six months in prison. Mayor Madeleine aka Valjean felt guilty towards Fantine and promised to reunite her with her daughter, Cosette. That's why he asked Javert to free Fantine. At first, Javert refused, but in the end, Mayor Madeleine won. When he met with Mayor Madeleine for the second time, Javert was increasingly convinced that the mayor was Jean Valjean. When Javert returned to meet with the mayor, Javert informed the mayor that he had made

a report to the authorities in Paris that the mayor was none other than a fugitive named Jean Valjean. However, Javert told Mayor Madeleine that he was wrong because the authorities in Paris told him they had arrested the real Jean Valjean and would be put on hearing the following day. Valjean alias Mayor Madeleine was shocked and decided to save Champmathieu, the man who was suspected to be him, by telling the court that he was Jean Valjean. After that, he returned to Montreuil to meet Fantine with being followed by Javert who caught him in the hospital room where Fantine was being treated. Javert managed to catch Valjean who begged to be given three days to reunite Fantine with her daughter, Cosette, but Javert refused the request. Valjean, for repeatedly running away and committing crimes again, was sentenced to death but by the king, the sentence was changed to a life sentence as a servant.

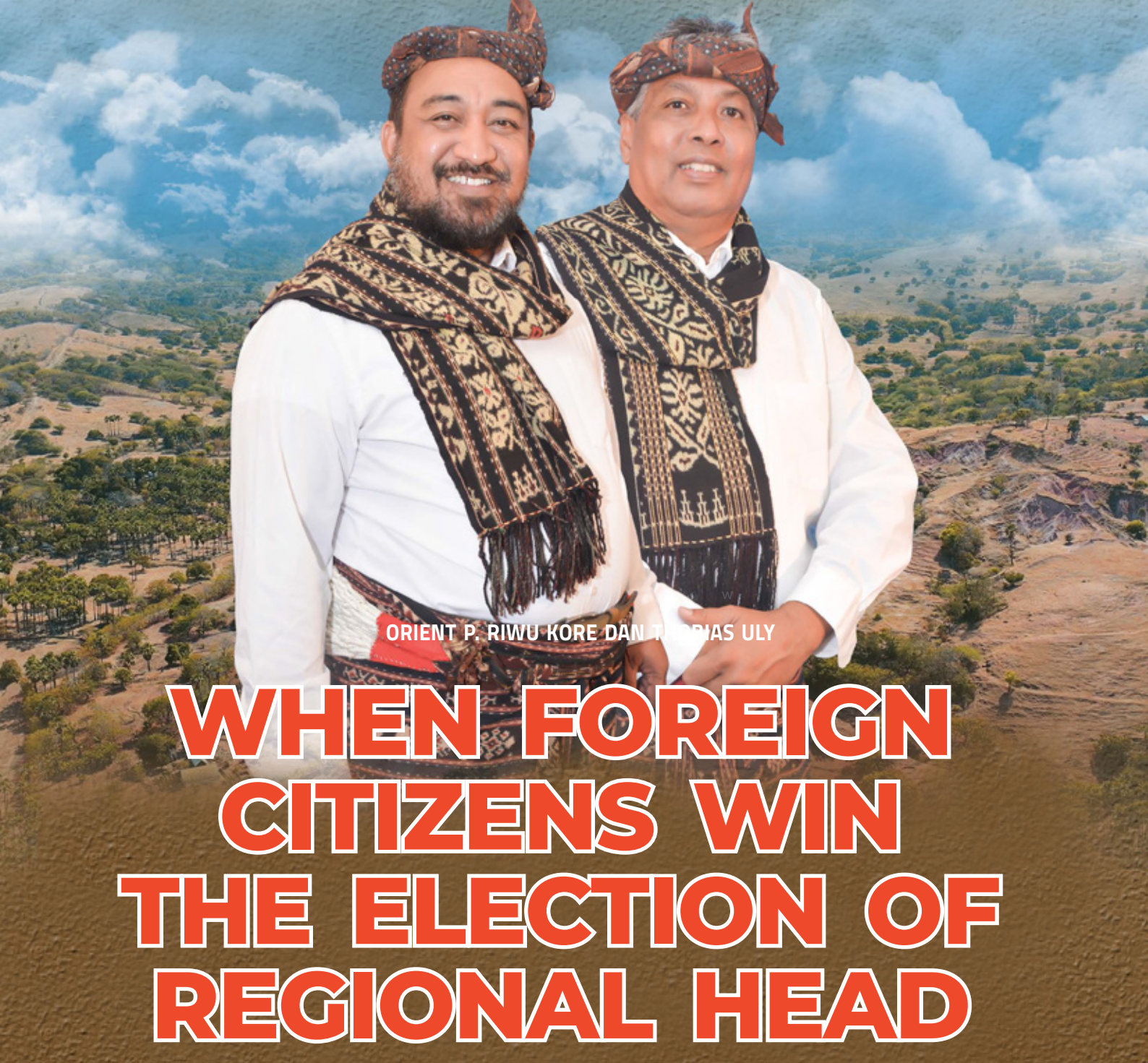
While imprisoned in Bagne, at the risk of his life, Valjean saved a sailor who was entangled in the ship's rigging. The people who witnessed the incident asked that Valjean be released but Valjean chose to throw himself into the ocean. Authorities declared he was dead and his body was not found. Valjean faked his death. He was then said to have saved Cosette from Thernardier's "slavery" and brought her to Paris. However, in just a few months, Inspector Javert managed to sniff out Valjean's whereabouts. So, Valjean and Cosette escaped and were helped by Fauchelevent—the person whom Valjean had rescued from the chariot wheels—and had now become a convent gardener. Valjean joined the convent gardener and Cosette was sent to school there.

There were still many twists and turns of Valjean's story which was intertwined with fragments of the French revolution, including the assassination attempt on him by Thernardier and his successful escape from the pursuit of Inspector Javert and the twists and turns of Cosette's romance with a young revolutionary student activist named Marius. It is said that student activists arrested

Inspector Javert who was suspected of being a spy and Javert admitted that he was indeed tasked with spying on the student movement. Meanwhile, Valjean, who initially hesitated whether to approve Marius' relationship with Cosette, ended up getting involved in revolutionary activities. He also wore a National Guard uniform and carried a gun.

Valjean volunteered to execute Javert and was allowed by one of the student activist leaders, Enjolras. Valjean then took Javert out of the arena and fired his gun into the air and released Javert. The activists' defensive barricades eventually fell and many of them were injured in clashes with the authorities, including Marius. Valjean then tried to save Marius and unexpectedly ran into Javert. Then, he asked Javert's permission to take Marius to his family and after that, he promised to turn himself in. Surprisingly, Javert granted the request. After that, Valjean also asked Javert's permission to make a short visit to his house and again Javert agreed by saying that he would wait for Valjean on the street. However, when Valjean looked down the street from his window, he saw that Javert was no longer there. What happened? Javert left with the weight of an unbearable dilemma between his strong belief in the law and the compassion Valjean displayed. He felt it was impossible to hand Valjean over to the authorities, but at the same time, he could not neglect his duties imposed by law. Eventually, he committed suicide by throwing himself into the Seine.

Where is the contemplation of the philosophy of law in this story? Maybe you have a much longer reflection than my review when answering this question in the comprehensive examination of Philosophy of Law at the University of Indonesia, thirteen years ago. However, it is almost certain that we will meet again and again at the same point: the law is one thing, justice is another. How do you get them to greet each other often? That's where the problem is. ■



ORIENT P. RIWU KORE DAN THOBIAS ULY

WHEN FOREIGN CITIZENS WIN THE ELECTION OF REGIONAL HEAD

For the first time in the history of regional head elections (Pilkada) in Indonesia, an elected regional head turned out to have dual citizenship. The elected Sabu Raijua Regent has a dual citizenship: Indonesia and the United States.

The General Election Commission (KPU) of Sabu Raijua Regency on December 16, 2020, had decided on the selected pair of candidates in the Regional Head Election. Based on the recapitulation of the vote count results, the General Election Commission of Sabu Raijua determined the candidate pairs Orient P. Riwu Kore and Thobias Uly (Orient-Thobias) as the winners

of the most votes beating the other two pairs of candidates.

Based on the Decision of the General Election Commission of Sabu Raijua Regency Number: 342/HK/.0 3.1-Kpt/5320/KPU-Kab/XII/2020 concerning Stipulation of the Recapitulation of Vote Counting Results for the 2020 Sabu Raijua Regent and Deputy Regent Election, Candidate Pair Number 1 Nicodemus

N. Rihi Heke and Yohanis Uly Kale received 13,313 votes (30.1%), Candidate Pair.

Number 2 Orient P. Riwu Kore and Thobias Uly received 21,363 votes (48.3%), and Candidate Pair Number 3 Taken Irianto Radja Pono and Herman Hegi Radja Haba received 9,557 votes (21.6%).

Victory had flashed before their eyes. On another step, the Orient-Thobias pair would occupy the throne of the regent-deputy regent of Sabu Raijua. However, suddenly a fog greeted at the end of the twilight. In the news, the Orient holds dual citizenship: Indonesia and the United States.

The polemic about Orient's citizenship became more and more prominent when the American Embassy in Indonesia spoke up. The American Embassy's response letter to the Sabu Raijua Elections Supervisory Agency on February 1, 2021, confirmed that Mr. Orient Patriot Riwu Kore is holding US citizenship.

Orient is the original son of Indonesia. He was born in Nunbaun Sabu Kupang on October 7, 1965, to Drs. Augustine David Riwu Kore and Ema Mariance Koroh Dimu. Orient studied at the Inpres Nunbun Sabu Kupang Elementary School (1971-1977), Kupang 1 Junior High School (1977-1980), Kupang 1 High School (1980-1983), and Nusa Cendana University Kupang (1983-1987). He is also noted to have an active Indonesian ID card and passport.

Orient acquired American citizenship because it was required by his employer and not by his own will. The acquisition of citizenship was a fulfillment of administrative requirements in employment and not based on the wishes of

Orient. After graduating from Nusa Cendana University in Kupang, Orient continued his education and work in the United States (US). In 2000, he married a US Citizen and by marriage, Orient received a Green Card on August 14, 2000. In 2006, Orient began working as an electrician for General Dynamics NASSCO, a company engaged in the manufacture of battleships for the United States Navy and oil ships.

The problem is the foreigner Orient had already been appointed as the candidate pair for Regent number 2, then ran in the election, won the most votes, and was then appointed as the elected regent. Orient's foreign nationality status was revealed after the entire election process had been completed and the inauguration proposal had been submitted to the Ministry of Home Affairs.

Orient-Thobias's inauguration plan was controversial. The objections came from two pairs of candidates who also competed in the Regional Head Election contestation. Many elements of society also raised objections.

Legal action was taken. Three petitions for the Election Result Dispute (PHP) of the Regent and Deputy Regent of Sabu Raijua, East Nusa Tenggara Province in 2020, were submitted to the Constitutional Court. The petition with registration Number 133/PHP.BUP-XIX/2021 was submitted by the candidate pair Nicodemus N. Rihi Heke and Yohanis Uly Kale. Petition Number 134/PHP.BUP-XIX/2021 was submitted by Herman Lawe Hiku (entrepreneur), Marthen Radja (farmer), and Yanuarse Bawa Lomi (AMAPEDO). The last petition with registration Number 135/PHP.BUP-XIX/2021

was submitted by Taken Irianto Radja Pono and Herman Hegi Radja Haba.

In Decision No. 135/PHP.BUP-XIX/2021, the Court declared the disqualification of the Orient Patriot Pair Riwu Kore and Thobias Uly. The Court also ordered the Respondent to conduct a re-voting of the 2020 Sabu Raijua Regency Regent and Deputy Regent, followed by Candidate Pair Number 1 (Nicodemus N. Rihi Heke, M.Sc. and Yohanis Uly Kale) and Candidate Pair Number 3 (Ir. Taken Radja Pono, M.Sc. and Herman Hegi Radja Haba, M.Sc.). Against the petition of Nicodemus N. Rihi Heke and Yohanis Uly Kale, the Court in its Decision No. 133/PHP.BUP-XIX/2021 stated that the 2020 Sabu Raijua Regency Regent and Deputy Regent Election must be held again with the provision that it referred to the case decision Number 135 /PHP.BUP-XIX/2021. Finally, in Decision No. 134/PHP.BUP-XIX/2021, the Court stated that the application of AMAPEDO et al. could not be accepted.

The election of a regional head of foreign nationality is an unprecedented legal incident. However, the dual citizenship polemic has happened before. We still remember a series of cases of dual citizenship, for example, Djoko Tjandra, **Archandra Tahar, Irfan Bachdim, Manohara Odelia Pinot, Cinta Laura, Gloria Natapradja.**

Hopefully, similar incidents do not happen again in the future elsewhere. In this case, election organizers are required to conduct their duties more carefully, thoroughly, professionally, and uphold independence. ■

NUR ROSIHIN ANA

CITIZENSHIP POLEMIC OF THE SABU RAIJUA REGENT AND DEPUTY REGENT CANDIDATES



Image: Orient P. Riwu Kore was present at the hearing to hear the Respondent's answer, the statement of the Related Parties, the statement of the Election Supervisory Body, the ratification of the evidence on Monday (15/3). Photo: Public Relations/lfa

The issue of citizenship for the Sabu Raijua Regent and Deputy Regent candidates became the main reason for the 2020 Sabu Raijua Regent Election Result Dispute (PHP) hearing. The inaugural hearing of the case registered as 133/PHP.BUP-XIX/2021 was held on Monday (8/3/2021). The petition was submitted by the Candidate Pair for Regent and Deputy Regent of

Sabu Raijua Number 1 Nicodemus N. Rihi Heke and Yuhanis Ulu Kale (the Petitioners).

At the preliminary examination hearing, Adhitya Anugrah Nasution as the Petitioner's attorney said that his party asked the Court to cancel the Decision Letter of the General Election Commission (KPU) of Sabu Raijua Regency Number 25/HK.03.1-Kpt/5320/KPU-Kab/I/ regarding the Stipulation of the Sabu Raijua

Regent and Deputy Regent Pairs in 2020 dated December 16, 2020.

Adhitya said that based on the provisions of Article 157 paragraph (5) of Law 10/2016, the petition for the quo has passed the grace period for submitting. However, based on the findings of the Election Supervisory Body for Sabu Raijua Regency, the elected Regent Orient Patriot Rewu Kore is a citizen of the United States of America. Therefore,

the Petitioners ask the Constitutional Court to be present for legal certainty on this issue.

“The Election Supervisory Body for Sabu Raijua Regency found the fact that the elected Regent is an American citizen, which of course cannot be accepted by all Indonesian people and if it left unchecked, there will be a bad precedent for Indonesia’s democratic system and therefore the state through the Constitutional Court must be present for legal certainty,” said Adhitya in the hearing held in the Plenary Court Room and attended by the parties online.

Adhitya further said that the Petitioners strongly objected to the decision of the General Election Commission of Sabu Raijua (the Respondent) because the Election Supervisory Body found that the winning pair did not meet the requirements as a Candidate Pair for Regent and Deputy Regent. According to the Petitioners, the Respondent’s decision contradicts Article 10 paragraph (1) of Law 30/2014 concerning Government Administration.

Recurring Citizenship Issues

Meanwhile, the Candidate Pair for Regent and Deputy Regent of Sabu Raijua Number 3 Taken Irianto Radja Pono and Herman Hegi Radja Haba also petitioned a similar case. In the first hearing of the registered case Number 135/PHP.BUP-XIX/2021, Yafet Yosafet W. Rissy as the Petitioner’s attorney stated that his party asked the Constitutional Court to cancel the Decision Letter of the General Election Commission (KPU) of Sabu Raijua Regency Number 25/HK.03.1-Kpt/5320/KPU-Kab/I/2020 regarding the Stipulation of the Elected Candidate Pairs for Regent

and Deputy Regent in the 2020 Sabu Raijua Regent and Deputy Regent Election dated 23 January 2020.

According to him, the decision was not born by itself because some processes and stages were passed before. Based on the letter from the Consul General of the United States Embassy in Indonesia dated February 1, 2021, which states that Mr. Orient Patriot R.K. is a citizen of the United States. The letter was an answer to the letter from the Election Supervisory Agency for Sabu Raijua Number 136/K.Bawaslu-SR/HK.00.021/IX/2020. So, formally, the fulfillment of the requirements to be determined as a candidate for Regent became legally flawed.

The Election Supervisory Body Letters

The question over the citizenship status of Orient Patriot Rewu Kore was then discussed further in the second hearing of this

case on Monday (15/3/2021). The Special Panel Session was chaired by Constitutional Justice Saldi Isra who was accompanied by Constitutional Justice Suhartoyo and Constitutional Justice Enny Nurbaningsih. The Election Supervisory Body for Sabu Raijua Regency, Markus Haba, was present who conveyed several points related to the chronology of the nominations of Orient P. Riwu Kore and Thobias Uly as potential pairs of candidates. On September 4, 2020, this Candidate Pair registered at the Sabu Raijua Regency General Election Commission. Before registration, Markus found information in the community regarding the citizenship status of Orient Regent P. Riwu Kore. Therefore, his party searched, including sending a letter to the General Election Commission of Sabu Raijua Regency so that it conducted a search and ensured the validity of the candidate documents and candidacy requirements of Orient



The Election Supervisory Body for Sabu Raijua Regency stated in a hearing held on Monday (15/3). Photo: Public Relations/lfa



Fritz Edward Siregar who was a commissioner of the Election Supervisory Body was present at the hearing to hear the Respondent's answer, the statement of the Related Parties, the statement of the Election Supervisory Body, the ratification of the evidence on Monday (15/3). Photo: Public Relations/ Ifa

P. Riwu Kore because the person concerned had been living abroad for a long time. However, the Sabu Raijua Regency General Election Commission did not immediately respond or follow up on the letter.

Then, on September 5, 2020, the Election Supervisory Body for Sabu Raijua Regency tried to send a letter to the Head of the Class I Immigration Office of TPI Kupang regarding a request for citizenship data from the 2020 Sabu Raijua Regent and Deputy Regent Candidates. The Election Supervisory Body's letter was answered on September 10, 2020, by the Immigration Office Class I TPI Kupang. The letter stated that the Candidates for Regent and Deputy Regent of Sabu Raijua were Indonesian citizens. However, on September 15, 2020, the Class I Immigration Office of TPI Kupang again wrote to the Election Supervisory Agency for Sabu Raijua Regency regarding the withdrawal of the letter that had been sent

previously. This was because the Class I Immigration Office of TPI Kupang was still in the process of coordinating with relevant agencies to study and explore the citizenship status of the 2020 Sabu Raijua Regent Candidate of Orient P. Riwu Kore. In the letter, Immigration Class I TPI Kupang also suggested that the Election Supervisory Body of Sabu Raijua Regency could send a letter of inquiry for citizenship status from the prospective Sabu Raijua Regent Orient P. Riwu Kore to the Office of the Ministry of Law and Human Rights of East Nusa Tenggara. Furthermore, this letter is to be further forwarded to the Directorate General of General Legal Administration of the Ministry of Law and Human Rights of the Republic of Indonesia for processing following applicable regulations.

Furthermore, on September 10, 2020, the Election Supervisory Body for Sabu Raijua Regency sent a

letter to the United States Embassy in Jakarta regarding a request for information on citizenship data. In the letter, the Election Supervisory Body for Sabu Raijua Regency requested the cooperation of the United States Embassy to help the Election Supervisory Body for Sabu Raijua Regency checking the citizenship status of Orient P. Riwu Kore as a candidate for Regent in the 2020 Regional Head Election.

Constantly seeking information, on September 10, 2020, the Election Supervisory Body of Sabu Raijua Regency sent a letter addressed to the Directorate of Immigration Traffic in Jakarta regarding requests for citizenship data. At the same time, the Election Supervisory Body of Sabu Raijua Regency sent a letter of recommendation to the General Election Commission of Sabu Raijua Regency regarding the validity of the e-KTP document of the prospective Regent on behalf of Orient P. Riwu Kore. Regarding this letter, the General Election Commission of Sabu Raijua Regency followed up by clarifying it to the Head of the Kupang City Population and Civil Registration Office. On September 21, 2020, the Election Supervisory Body of Sabu Raijua Regency received a letter from the General Election Commission of Sabu Raijua Regency regarding the population administration management in the form of an e-KTP on behalf of Orient P. Riwu Kore. The letter confirmed that he is a resident of Kupang City with his address at RT 003/RW 001, Nunbaun Sabu Village, Alak Sub-District, Kupang City, and the procedure had been implemented following the mandate of Law Number 24 of 2006 concerning Population Administration.

Only Indonesian Citizens

Margarito Thursday as the Expert presented by the Petitioner in case Number 133/PHP.BUP-XIX/2021 at the follow-up hearing which was held on Tuesday (6/4/2021) in the Plenary Session Room of the Constitutional Court. In his statement, Margarito said that the 1945 Constitution would only give citizens the right to choose and exercise state power. In the statement, he stated that in the concept of citizenship, citizenship is never unrelated to people in one area who from the beginning agreed to become a community in a social order that is recognized as an independent person and has the same rights and obligations.

Meanwhile, regarding the legal consequences, if a foreigner registers to become a regional head and it is declared that all documents are valid by the General Elections Commission, Margarito believes that this can be stated as a person who does not have the right and does not meet the legal requirements to become a regional head. If the citizenship requirements are not met, then by law, all the things contained in the submission of these requirements and more can also be declared invalid. Therefore, the person concerned does not have any rights in the election.

Exclusive Rights of Indonesian Citizens

On the same occasion, Bernard L. Tanya was the next expert presented by the Candidate Pair for Regent and Deputy Regent of Sabu Raijua Number 3 Taken Irianto Radja Pono and Herman Hegi Radja Haba in case Number 135/PHP.BUP-XIX/2021. In his statement, Bernard assessed that the right to vote and to be elected is the exclusive right

of Indonesian citizens. Elections are a political recruitment process for state positions that contain issues of sovereignty and the interests of the state so that these can only be filled by citizens.

Therefore, Bernard considers this to be the most obvious form of violation of the election administration, including the Regional Head Election. According to him, the process of selecting regional heads in the Sabu Raijua Regency had violated the constitution and the fair and honest principle that binds election organizers and participants. So that formal defects become a strong reason to disqualify the selected pair of candidates, which can be conducted in the *a quo* case.

The Consulate Answered

Regarding this citizenship issue, the Constitutional Court

presented Sigit Setiawan as the Technical Staff of the Consulate General of the Republic of Indonesia (KJRI) in Los Angeles (LA). Based on data held by the Indonesian Consulate General, Orient Patriot Riwu Kore in March 2019 visited the Indonesian Consulate General in LA to process his passport which had expired in 2013. When applying for a passport, Orient submitted a green card, ID, driver's license, and passport filling form which had been filled out and signed by the party concerned. Moreover, Orient also signed a statement stating that he had never asked for naturalization to become an American citizen or other foreign countries, a statement that he did have an American passport, a statement that he had never been a member of the police or army of the United States or any other foreign country and did not pledge allegiance to the United States or other foreign countries.



Bernard L. Tanya as the Expert who was presented by Candidate Pair Number 3 Taken Irianto Radja Pono and Herman Hegi Radja Haba in a hearing to hear the Experts on Monday (15/3). Photo: Public Relations/lfa



Sigit Setiawan as the Technical Staff of the Indonesian Consulate General in Los Angeles was present at the hearing to hear the statement which was held on Wednesday (7/4). Photo: Public Relations/lfa

Based on a report from the service officer, the Indonesian Consulate General in Los Angeles did not issue a passport but a Travel Letter Like Passport (SPLP) on January 22, 2019, because the green card in question had expired in 2011. At that time, Orient said his green card was still in the process of being extended. “Passport applicants who have a green card are still categorized as foreigners in America (not American citizens). This means that Orient still has Indonesian citizenship,” explained Sigit in a virtual court hearing.

After receiving news about the citizenship status of Orient Patriot Riwu Kore as an American citizen, the Indonesian Consulate General in Los Angeles immediately conducted an internal investigation into the immigration service staff. In conclusion, Orient at that time was still an Indonesian citizen who could get a passport. However, Sigit

admitted that it was difficult for his office to access information regarding the citizenship status of Indonesian citizens in America except based on the person’s acknowledgment because the United States government is very protective of privacy and is not open to requests for such information.

Information from the Immigration Office

In resolving the Election Result Dispute (PHP) case for the Sabu Raijua Regent in 2020, the Constitutional Court also presented Ruri Hariri Roesman as the representative of the Directorate General of Immigration of the Ministry of Law and Human Rights on Wednesday (7/4/2021). He said that when Orient Patriot Rewu Kore entered Indonesia, he was using an Indonesian passport with an active date of April 1, 2019-1 April 2024. Based on the recording of the landing at Soekarno Hatta Airport, Orient

entered Indonesia on July 16, 2020, with a passport issued by the South Jakarta Immigration Office.

This Head of the Immigration Status Review Section in the Directorate General of Immigration, also revealed that the Indonesian passport owned by Orient was found based on a Passport-like Travel Letter (SPLP) issued by the Consulate General of the Republic of Indonesia (KJRI) in Los Angeles. Moreover, regarding the existence of a United States passport owned by Orient which he admitted is still valid until 2027, Ruri said that his party did not know exactly what the problem was. “Considering that as long as the person concerned does not use the passport for crossing, it is not known the use of the passport other than his Indonesian passport,” said Ruri who was present at the virtual hearing from the office of the Directorate General of Immigration of the Ministry of Law and Human Rights.

Meanwhile, the Head of the Kupang Class 1 Immigration Office, Darwanto, in his statement stated that the locus of the problems faced by Orient in connection with the immigration landing was not within the authority of the Kupang region but in Jakarta. This was because Orient returned to Sabu Raijua to run for Sabu Raijua Regent in 2020. Darwanto admitted that Orient was indeed a native of Sabu Raijua who had a large family in Kupang. Regarding Orient’s return to Kupang, the Immigration Office was not authorized to issue arguments regarding the renunciation of the citizenship concerned because there was no report at the Kupang immigration office.

Darwanto also clarified letters from the Election Supervisory Body for Sabu Raijua Regency addressed

to the Kupang Immigration Office on the clarification of Orient citizenship dated September 10, 2020, and September 15, 2020. Regarding the difference in the sounds in the two letters to the Election Supervisory Body, he was guided by evidence that someone was declared an Indonesian citizen if the conditions for ownership of an Identity Card (KTP) and Family Card (KK) were met.

ID Number

The Director-General of Population and Civil Registration (Dukcapil) of the Ministry of Home Affairs (Kemendagri) Zudan Arif Fakhrulloh explained about the population administration of foreigners. There are two types of documents that can be given, namely a Limited Stay Permit Card (KITAS) or a Permanent Stay Permit Card (KITAP).

Regarding the issue of documents owned by Orient, Zudan said that based on the database owned by his office, it was recorded in 1997, the Population System found the name in question and was registered as an Indonesian citizen residing in North Jakarta. In 2011, when Indonesia conducted population data analysis, the regional NIK was replaced with a nationally valid NIK so that the Orient in its NIK had an initial code numbered 31, which means the area code of the DKI Jakarta Province. In 2011, when Indonesia re-arranged the population, the regional NIK was replaced with a nationally valid NIK so that Orient's NIK had an initial code numbered 31, which means the area code of the DKI Jakarta Province.

In 2018, Orient made an e-KTP with data as an Indonesian

citizen and in 2019, he applied for an e-KTP transfer from the North Jakarta area to South Jakarta and in 2020, then moved back to Kupang and had a Kupang e-KTP. Normatively, when a person does not report a change in his citizenship status to the relevant agency, his right as an Indonesian citizen to obtain an ID card and passport may not be disturbed. Regarding the finding of differences in Orient's NIK codes who have a Kupang ID card but the area code is DKI Jakarta, Zudan explained that the NIK is valid for life following the area code where the NIK code was made. If a person moves to another area, then his/her NIK remains and the only thing that changes is the Family Card number. ■

SRI PUJIANTI



The Director-General of Population and Civil Registry of the Ministry of Home Affairs, Zudan Arif Fakhrulloh, was present as a witness who was invited by the Constitutional Court to hear testimony held on Wednesday (7/4). Photo: Public Relations/Ifa

SABU RAIJUA'S AMPEDO QUESTIONING THE FOREIGN CITIZENSHIP STATUS OF THE ELECTED REGENT OF SABU RAIJUA



Yafet Yosafet represented AMPEDO in the preliminary hearing which was held on Monday (8/3). Photo: Public Relations/Ifa

The controversy over the elected Orient P. Riwu Kore—who is a citizen of the United States—as a candidate for the elected Regent in Sabu Raijua Regency continued to the Constitutional Court (MK). Three cases of Dispute over the Election Results of the Sabu Raijua Regent were held in a hearing at the Constitutional Court (MK) on March 8, 2021. One of them is Case Number 134/PHP.

BUP-XIX/2021 which was submitted by Herman Lawe Hiku and Marthen Radja as petitioners on behalf of individuals and the Sabu Raijua Democracy Concern Community Alliance (AMPEDO).

At the Preliminary Session, Yafet Yosafet Wilben Rissy as the Petitioner's attorney argued that the Candidate Pair for Sabu Raijua Regent Number 2 Orient Patriot Riwu Kore held United States citizenship. This was officially stated by the

United States Embassy in Jakarta on February 1, 2021.

“That the American Embassy's response letter was submitted to the Sabu Raijua Election Supervisory Agency on February 1, 2021, stating firmly that ‘Mr. Orient Patriot Riwu Kore is holding a US citizenship,’” said Yafet.

According to the Petitioner, the General Election Commission of Sabu Raijua Regency was careless and not accurate enough to pass

the Orient Patriot Riwu Kore, who is a citizen of the United States of America and appointed him as the Elected Regent Candidate.

Orient P. Riwu Kore through his attorney confirmed that he had never submitted an application for waiver of citizenship as an Indonesian citizen (WNI). “Orient has never applied for the renunciation of Indonesian citizenship. There has never been a report on dual citizenship until the completion of the election stage and there has never been an official decision document on the revocation of citizenship on behalf of Orient. Until now, Orient has never applied for the renunciation of his citizenship,” said Sophar as the attorney for Candidate Pair Number 2 at a follow-up hearing with the agenda of hearing the Respondent’s answers, information from the Related Parties and the Election Supervisory Body which was held on Monday, March 15, 2021.

Sophar also revealed that Orient had revoked his United States passport through the US Embassy in Jakarta on August 5, 2020, before the start of registration as a candidate pair. However, he continued, the request for the renunciation of US citizenship was not followed up by the US Embassy on the grounds of Covid-19. In February 2021, Orient officially waived US citizenship at the US Embassy.

“On February 1, 2021, the US Embassy stated Orient being the holder of an American passport that was not following the law, that on August 5, 2020, the US Embassy should immediately follow up on the application for waiver of American citizenship because all requirements have been met,” said Sophar.

Then, Sophar said Orient had a United States Green Card because

of his marriage since 2000. Moreover, Orient also worked as an electrician at General Dynamic NASSCO, United States.

“NASSCO is engaged in making battleships and oil ships for America. Due to the confidential nature of NASSCO’s work, every employee is required to acquire United States citizenship. Therefore, NASSCO as the sponsor company of Orient took care of his citizenship. Orient had never relinquished Indonesian citizenship,” explained Sophar.

Meanwhile, the General Election Commission of Sabu Raijua Regency, represented by Periat PR Ginting, stated that the Petitioner had no legal standing because the Petitioner was not a candidate for Sabu Raijua Regent. Moreover, he also mentioned that the stages of organizing the Sabu Raijua Regency elections were guided by the provisions of Article 5 paragraph 3 of Law Number 10 of 2016 and there were no formal defects in each of these stages.

At the follow-up hearing of the 2020 Sabu Raijua Regent Election Dispute with the agenda of Examination of Witnesses and/or Experts as well as the submission and ratification of additional evidence which was held on April 6, 2021, Bernard L. Tanya was present as an expert on the Petitioners. He explained that the general election, including the Regional Head Election, was a political recruitment process for state positions that contained issues of state sovereignty and national interests. Therefore, this position can only be filled by a citizen. This causes the participation of foreigners as candidates for regional heads to be not legally enforced.

The Nusa Cendana Law Faculty lecturer also called the

candidacy of Orient Patriot Riwu Kore (Related Parties)—who is a foreigner in the 2020 Sabu Raijua Regent Election—a formal legal defect. This, Bernard continued, could be a strong reason to disqualify the victory of the party concerned.

Embassy Staf Testimony

Furthermore, a follow-up hearing was held with the agenda of listening to the informants on Tuesday (7/4/2021). Sigit Setiawan, Technical Staff of the Consulate General of the Republic of Indonesia (KJRI) in Los Angeles (LA) said that Orient Patriot Riwu Kore in March 2019 had visited the Indonesian Consulate General in LA to apply for a passport which had expired in 2013. Based on reports from service officers, said Sigit, the Indonesian Consulate General in Los Angeles did not issue a passport but a Travel Letter Like Passport (SPLP) on January 22, 2019, because the green card in question had expired in 2011.

During the hearing, the Judge discussed the diplomatic note from the American Embassy in Indonesia Number 00709, dated February 10, 2021.

“(Diplomatic note) submitted by the United States Embassy to the Indonesian Ministry of Foreign Affairs stating ‘The Embassy can confirm to the Ministry and the Election Supervisory Agency of The Republic of Indonesia, that Mr. Riwukore is an American citizen’.”

Sigit believes that Orient Patriot Riwu Kore was dishonest when providing information on his passport application, in which Orient had American citizenship at that time. ■

FUAD SUBHAN

PROVEN TO HAVE DUAL CITIZENSHIP, THE CONSTITUTIONAL COURT DISQUALIFIED ORIENT P. RIWU KORE



The Panel of Constitutional Justices read out three decisions related to the Dispute over the Election Results of the Sabu Raijua Regent on Wednesday (15/4). Photo: Public Relations/lfa

Finally, the Constitutional Court (MK) disqualified Candidate Pair Number 2 Orient Patriot Riwu Kore and Thobias Uly from participating in the 2020 Sabu Raijua Regency Regent and Deputy Regent Election. From the facts of the hearings, it was proven that Orient had two passports, which are a United States passport and an Indonesian passport.

Decision Number 135/PHP. BUP-XIX/2021 which partially granted the petition submitted by the Candidate Pair for Regent and Deputy Regent Number 3 Taken Irianto Radja Pono and Herman Hegi Radja Haba was read out on Thursday (15/4/2021) in the Plenary Meeting Room of the Constitutional Court.

“Declaring the disqualification of Candidate Pair Number 2 Orient

Patriot Riwu Kore and Thobias Uly from participating in the 2020 Sabu Raijua Regency Regent and Deputy Regent Election,” said Chief Justice of the Constitutional Court Anwar Usman accompanied by eight other constitutional judges.

In its ruling, the Constitutional Court canceled four decisions of the Sabu Raijua Regency General Election Commission (Respondent), namely Decision

Number 342/HK.03.1-Kpt/5320/KPU-Kab/XII/2020 concerning the Determination of the Recapitulation of Vote Count Results for the 2020 Sabu Raijua Regent and Deputy Regent Elections, dated December 16, 2020. Then, the Constitutional Court also canceled the Decision of the General Election Commission of Sabu Raijua Regency Number 152/HK.03.1-Kpt/5320/KPU-Kab/IX/2020 concerning the Determination of Candidate Pairs for Regent and Deputy Regent who Qualified the requirements as a participant in the 2020 Sabu Raijua Regent and Deputy Regent Election, dated September 23, 2020. Moreover, the Constitutional Court also canceled the Decision of the General Election Commission of Sabu Raijua Regency Number 153/HK.03.1-Kpt/5320/KPU-Kab/X/2020 concerning the Determination of the Serial Number and List of Candidates for the 2020 Sabu Raijua Regent and Deputy Regent Election, dated September 24, 2020, as long as it concerned

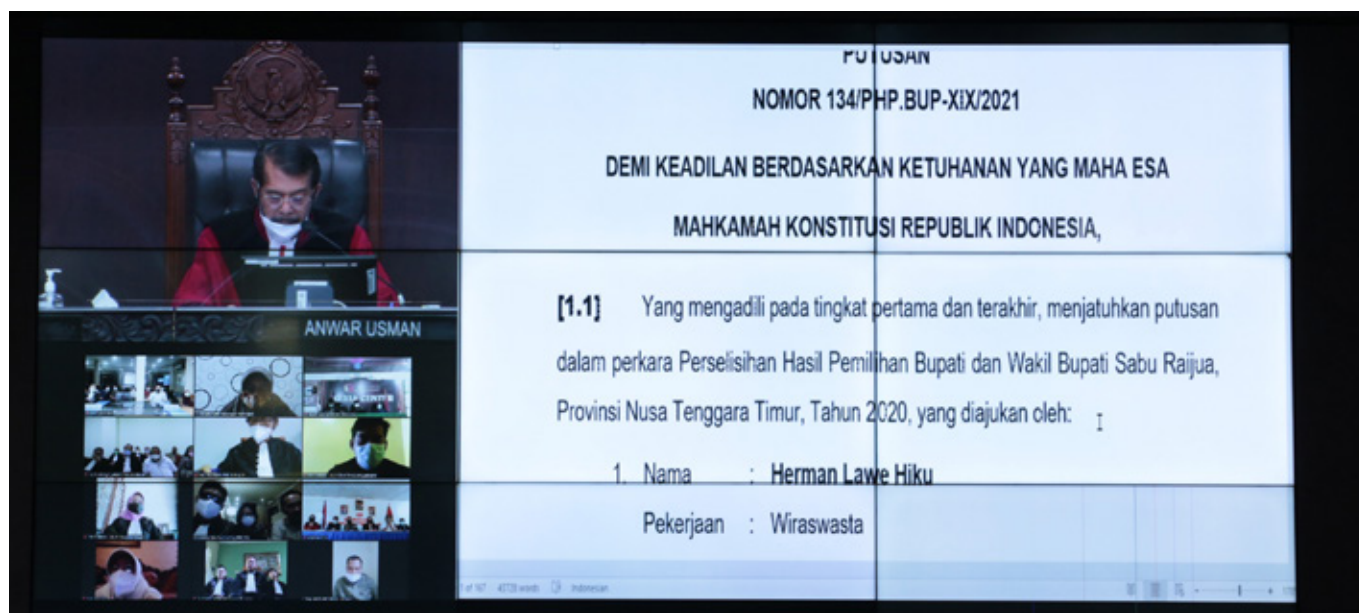
the Candidate Pair Number 2 (Orient Patriot Riwu Kore and Thobias Uly). Finally, the Constitutional Court canceled the Decision of the General Election Commission of Sabu Raijua Regency Number 25/HK/03.1-Kpt/5420/KPU-Kab/2021 concerning the Determination of the Elected Pairs of Regent and Deputy Regent Candidates in the 2020 Sabu Raijua Regent and Deputy Regent Election, dated 23 January 2021.

Furthermore, the Constitutional Court also ordered the Respondent to conduct a re-voting for the 2020 Sabu Raijua Regency Regent and Deputy Regent Election, which would be followed by two pairs of candidates, namely Candidate Pair Number 1 Nicodemus N. Rihi Heke and Yohanis Uly Kale and Candidate Pair Number 3 Taken Radja Pono and Herman Hegi Radja Haba. Moreover, the Constitutional Court ordered the re-voting to be conducted within a grace period of 60 (sixty) working days after the decision was pronounced.

Possession of Two Passports

In the legal considerations read out by Constitutional Justice Saldi Isra, the Court found legal facts that Orient Patriot Riwu Kore had two passports. The two passports are the Republic of Indonesia passport Number X746666 which is valid from April 1, 2019, to April 1, 2024, according to the information from the Directorate General of Immigration of the Ministry of Law and Human Rights and the United States passport Number 574900485 which is valid from July 10, 2017, to July 9, 2027. “Moreover, previously, Orient Patriot Riwu Kore also held the United States passport Number 430562714 which was valid from August 11, 2007, to August 10, 2017,” said Saldi.

Saldi continued, ownership of a United States passport—as well as passports from other foreign countries—if referring to Article 23 letter h *junctis* letter a and letter b of Law 12/2006, has the consequence that Orient Patriot



The process of reading the three decisions regarding the Dispute over the Election Results of the Sabu Raijua Regent on Wednesday (15/4). Photo: Public Relations/Ifa

Riwu Kore should immediately lose his status as an Indonesian citizen without having to go through the administrative mechanism for relinquishing citizenship. Moreover, he continued, a United States passport was issued in the name of Orient Patriot Riwu Kore (valid 2017-2027) as a continuation of the previous United States passport in 2017. “According to the Court, the issuance of the passport confirms Orient’s status as a United States citizen,” said Saldi.

Dishonest

Then, Saldi added that after the issuance of the United States passport, Orient obtained a Republic of Indonesia passport valid from 2019 to 2024. In the hearings, facts have been revealed that in his attempt to obtain a Republic of Indonesia passport, Orient Patriot Riwu Kore never explained or did not admit to being a United States passport holder to the officers of the Consulate General of the Republic of Indonesia (KJRI) in Los Angeles.

“Incomplete information became the basis for the Indonesian Consulate General in Los Angeles to issue a Travel Letter Like a Passport (SPLP) on behalf of Orient Patriot Riwu Kore, with status as an Indonesian citizen, as a passport replacement document when entering Indonesian territory to apply for a passport for the Republic of Indonesia,” he explained.

Saldi continued, Orient entered Indonesia using the SPLP and it was used as the basis for submitting a new Republic of Indonesia passport at the South Jakarta Immigration Office. He added that in the hearing, it was revealed that Orient used a

different reason when applying for a passport at the South Jakarta Immigration Office, with the reasons for applying for the issuance of SPLP at the Consulate General in Los Angeles. Orient’s reason to the Indonesian Consulate General in Los Angeles was that his green card had expired in 2011 and was in the process of being extended. Orient said differently to the South Jakarta Immigration Office where he argued that his Republic of Indonesia passport had been lost.

“This fact proves that Orient Patriot Riwu Kore was never honest about his citizenship status, including not recognizing that status when registering as a candidate for Regent of Sabu Raijua Regency in the 2020 Election of Regent and Deputy Regent of Sabu Raijua Regency. Furthermore, on August 5, 2020, when Orient applied for the renunciation of United States citizenship, this was not explicitly conveyed to the Respondent,” said Saldi.

A US Citizen

Based on Law 12/2006 which adheres to the principle of single citizenship, the Court believes that the status of Orient from 2007 until now is a citizen of the United States. This status was also confirmed by an email response from the United States Embassy in Jakarta to the Election Supervisory Agency for Sabu Raijua Regency and a diplomatic note Number 00709, dated February 10, 2021.

“(Diplomatic note) submitted by the United States Embassy to the Indonesian Ministry of Foreign Affairs stating ‘The Embassy can confirm to the Ministry and the

Election Supervisory Agency of The Republic of Indonesia, that Mr. Riwukore is an American citizen’. The document is evidence that was presented at the hearing,” said Saldi.

Concerning the status as described above, Saldi said that the conditions for citizens to be able to register as candidates in the regional head election are those who have the status of Indonesian citizens. Indonesia adheres to a single citizenship (*stelsel*) system, so Indonesian citizens are not allowed to have other citizenship statuses.

“Because Mr. Orient Patriot Riwu Kore has a United States passport which, logically, he still has the status of a United States Citizen, so that he does not meet the requirements of citizens (as stipulated in Article 7 of Law 10/2016) to apply as candidates in the 2020 election of the Regent and Deputy Regent of Sabu Raijua Regency,” said Saldi.

Re-Voting

Saldi also explained the consequences of the invalidity of the candidate pair on the results of the 2020 Sabu Raijua Regency Regent and Deputy Regent Election. The Constitutional Court thought that the cancellation of Candidate Pair Number 2 as a candidate pair for the 2020 Sabu Raijua Regency Regent and Deputy Regent Election, while the pair was an elected candidate pair, had resulted in a vacancy in the first rank position in terms of the vote count. According to the Court, the vacancy cannot simply be filled by appointing the candidate pair with the second-highest number of votes as the selected candidate pair. “The votes (which show voter

support) in the 2020 Sabu Raijua Regency Regent and Deputy Regent Elections were spread to the three pairs of candidates,” said Saldi.

Saldi continued that with these considerations, to reaffirm the legitimacy or support of the people for the candidate pair who will later be elected and lead the Sabu Raijua Regency, the Constitutional Court thought that a re-voting must be conducted in the 2020 Sabu Raijua Regent and Deputy Regent Election.

“Re-voting in the 2020 Sabu Raijua Regency Regent and Deputy Regent Election includes only two pairs of candidates, Candidate Pair Number 1 Nicodemus N. Rihi Heke and Yohanis Uly Kale, and Candidate Pair Number 3 Taken Radja Pono and Herman Hegi Radja Haba,” said Saldi.

In line with referring to Decision Number 135/PHP.BUP-XIX/2021, the Court in its Decision Number 133/PHP.BUP-XIX/2021 stated that a re-voting of the 2020 Sabu Raijua Regency Regent and Deputy Regent must be held.

“One, granting the Petitioner’s request in part. Two, stating that a re-voting of the 2020 Sabu Raijua Regency Regent and Deputy Regent must be held with the provision that it refers to the decision of the case Number 135/PHP.BUP-XIX/2021,” said Chairman of the Plenary Session of Constitutional Justices Anwar Usman accompanied by other constitutional judges.

Unacceptable

Meanwhile, regarding petition Number 134/PHP.BUP-XIX/2021, the legal considerations of the Constitutional Court read



Constitutional Justice Saldi Isra read out legal considerations in the verdict hearing which was held on Wednesday (15/4). Photo: Public Relations/Ifa

out by Constitutional Justice Enny Nurbaningsih highlighted the legal standing of the Petitioners. Herman Lawe Hiku, Marthen Radja, and AMAPEDO were the Petitioners of the case but were not the pairs of candidates and monitoring institutions in the 2020 Sabu Raijua Regent and Deputy Regent Election.

Based on this, the Court considered that the Petitioners did not comply with the provisions of Article 157 paragraph (4) of Law 10/2016 and Article 4 paragraph (1) of PMK 6/2020 as one of the pairs of candidates who could apply a

petition to a dispute over the results of the 2020 Sabu Raijua Regency Regent and Deputy Regent Election so that the Petitioners did not meet one of the formal requirements as applicants who had legal standing.

“The Court thinks that the Petitioners do not have the legal standing to file the *a quo* petition. Therefore, the exceptions of the Respondent and the Related Parties regarding the legal standing of the Petitioners are grounded according to law,” said Enny Nurbaningsih. ■

LULU ANJARSARI

THE CHRONOLOGY OF LEGAL FACTS REGARDING THE CITIZENSHIP ISSUES OF Mr. ORIENT P. RIWU KORE



DECISION OF PETITION FOR DISPUTE ON THE RESULTS OF THE ELECTION OF REGIONAL HEAD IN 2020 (4 CASES)

NO	CASE NUMBER	PRINCIPLES OF THE MATTER	PETITIONERS	VERDICT	VERDICT DATE
1	134/PHP.BUP-XIX/2021	Disputes over the 2020 Sabu Raijua Regent Election Results	<ol style="list-style-type: none"> 1. Marthen Radja 2. Herman Lawe Hiku 3. Yanuarse Bawa Lomi, on behalf of Sabu Raijua Democracy Concern Community Alliance (AMPEDO) (AMAPEDO) 	Unacceptable	15 April 2021
2	135/PHP.BUP-XIX/2021	Disputes over the 2020 Sabu Raijua Regent Election Results	<ol style="list-style-type: none"> 1. Herman Hegi Radja Haba 2. Takem Irianto Radja Pono 	Partly Granted	15 April 2021
3	133/PHP.BUP-XIX/2021	Disputes over the 2020 Sabu Raijua Regent Election Results	<ol style="list-style-type: none"> 1. Nikodemus N. Rihi Heke 2. Yohanis Uly Kale 	Granting the Petitioner's Petition Partially	15 April 2021
4	136/PHP.BUP-XIX/2021	Disputes over the 2020 Pesisir Barat Regent Election Results	<ol style="list-style-type: none"> 1. M. Husni 2. Sutarto Rangkayo Mulie 3. Nelly Armida and M. Husni, H. Sutarto Rangkayo Mulie 	The Petitioner's Petition Is Unacceptable	15 April 2021



Chairman of the Constitutional Court (MK) Anwar Usman, in his general lecture on Lustrum XIV and the Launching of the 70 Year Logo of the Faculty of Law, Andalas University (FH UNAND), at the Multipurpose Building (GSG) FH Unand on Friday (26/3/2021). Photo: Public Relations/Ilham.

UNDERSTANDING THE QUESTIONS OF THE CAMPUS WORLD TO THE MECHANISM OF REMOTE HEARINGS

The actions of Constitutional Justices as part of the nation's leaders must continue to contribute knowledge and share experiences in the field of law to the community. At the end of March to mid-April 2021, Constitutional Justices began to make direct visits to several universities to share knowledge by implementing strict health protocols. However, activities through virtual space were still conducted by using technology to connect discussions with students from all over the country.

Campus World Oversees the Government

Intellectuals from the campus world have always been a critical and objective group together with the people and have overseen the course of government since the independence period. This was conveyed by the Chief Justice of the Constitutional Court (MK) Anwar Usman, in his general lecture on Lustrum XIV and the Launching of the 70 Year Logo of the Faculty of Law, Andalas University (FH UNAND), at the Multipurpose Building (GSG) FH Unand on Friday (26/3/2021).

Anwar also said that the world of education has also given birth to critical figures who always fill in every era and period. According to him, history records educated figures who

have led the Indonesian nation to achieve its independence. As well as the government transition process which occurs in Indonesia has also always been pioneered by the campus world.

"As we know it, the transition process from the old order government to the new order and the transition from the new order government to the reform order was also pioneered and fronted by the campus world," said Anwar. With such a historical record, Anwar sees the importance of continuing to remember the role of education and the world of campuses which have such a big meaning and role in the history of the nation's journey.

Anwar further stated that one of the best legacies of the campus world is the reform movement. One of the demands of reform was the amendment

to the 1945 Constitution. The amendment to the 1945 Constitution has provided space for the protection of citizens' constitutional rights.

This Bima's native stated that efforts to increase public understanding of their constitutional rights are important for all groups, especially academics. Anwar said that although the amendment took place almost 19 years ago because the amendments to the 1945 Constitution are fundamental in nature, there is often still a bias in the public's understanding of the contents and values contained in the constitution.

Anwar gave an example, many members of the public who interpret the amendments to the 1945 Constitution in "four stages" changed to "four times" so that they have different meanings. The meaning of "changes conducted



in four stages” changes that are made once to the same object. While the meaning of “changes made four times” is changes made four times to the same object.

Rights and Responsibilities during a Pandemic

The Chief Justice of the Constitutional Court (MK) Anwar Usman gave a public lecture in the signing of the Memorandum of Understanding for Socialization and Promotion of Constitutional Awareness Culture between the Constitutional Court and Padang State University (UNP). This activity took place on Friday (26/03/2021) at the UNP Rectorate Building, Padang, West Sumatra.

Starting his general lecture, Anwar said he was proud and grateful because, despite the Covid-19 pandemic, academic activities at UNP could be conducted while maintaining health protocols. According to him, this shows the strong commitment and innovation of Padang State University, to continue to be able to conduct each of its programs even in a situation that is currently referred to as a new normal state.

In a public lecture with the theme “Demanding Rights and Conducting Constitutional Obligations amid the Covid 19 Pandemic,” Anwar said one of the main contents of the Constitution is the protection of the constitutional rights of citizens. Therefore, in the conditions of the Covid-19 pandemic, there are many constitutional rights of citizens that must be protected. The main and first component to protect the constitutional rights of citizens is state administrators.

Anwar stated that under normal conditions without a pandemic disease outbreak, the implementation of health insurance by the state is a very complicated and quaint issue. Anwar said that referring to the United States, which is known as a superpower, when the country discussed and would ratify health insurance under Obama’s leadership, which would launch the Obama care program, it became such a great controversy.

“The controversy is more due to the issue of the state budget which is likely to be largely drained if every citizen has to be borne by the state for health insurance,” said Anwar, to the participants who attended the public lecture offline and online.

According to Anwar, the current state of the Covid-19 pandemic also

The Chief Justice of the Constitutional Court (MK) Anwar Usman gave a public lecture in the signing of the Memorandum of Understanding for Socialization and Promotion of Constitutional Awareness Culture between the Constitutional Court and Padang State University (UNP) which took place on Friday (26/03/2021) at the UNP Rectorate Building, Padang, West Sumatra. Photo: Public Relations/Ilham

holds the state’s responsibility to its citizens in the health sector. In Article 28H paragraph (1) and Article 34 paragraph (3) of the 1945 Constitution (UUD 1945), it is stated that everyone has the right to obtain health services and the state is responsible for providing the said health service facilities. Therefore, to fulfill the right to health as referred to in the provisions of the 1945 Constitution, it is not an easy matter to be realized.

Challenges of the Legal Profession Facing the Development of Information Technology

Constitutional Justice Wahiduddin Adams was the source person for the National Webinar ‘Prospects and Legal Challenges in the Time of the



Constitutional Justice Wahiduddin Adams was the source person for the National Webinar which was held virtually by the Tangerang Branch Executive Board of the Indonesian Advocates Association (Peradi) in collaboration with the Faculty of Sharia and Law of the Syarif Hidayatullah State Islamic University (UIN) Jakarta, Saturday (27/03) at the Constitutional Court Building. Photo: Public Relations/Panji.

Covid-19 Pandemic". This activity was held virtually by the Tangerang Branch Executive Board of the Indonesian Advocates Association (Peradi) in collaboration with the Faculty of Sharia and Law of the Syarif Hidayatullah State Islamic University (UIN) Jakarta on Saturday (27/3/2021) afternoon.

In this webinar, Wahiduddin divided the discussion into two things. First, the challenges of the legal profession, in general, are facing the industrial era 4.0 with all the usage of technology. Second, the experience of the Constitutional Court in dealing with the Covid-19 pandemic situation.

"What is meant by the industrial era 4.0 is an era associated with service and commodity industries that use technology. The services and commodities offered have then dramatically and revolutionarily changed a commercial market and people's way of life," explained Wahiduddin.

Wahiduddin gave an example of online *Ojek* (motorcycle taxis) in transportation services. Online *Ojek* changes the management as well as the land transportation market. Even though a famous taxi service dominates in a

big city and was immovable. However, the presence of online transportation services has become a threat to taxi companies that have existed and been dominant for a long time. Large-scale taxi companies do not feel a threat when there are other taxi company rivals. However, when online transportation service companies emerged, then large-scale taxi companies felt shaky. That is one example of the industrial era 4.0.

So, what about the application of industry 4.0 in the court world during this pandemic? Wahiduddin explained that disputes and legal cases do not need to be resolved in court. Disputes in court may be resolved through video conference which brings together the parties and the panel of judges without the need for the physical presence of the parties and the panel of judges in the same room. This includes the schedule for the hearing of witnesses, there is no need to be long-winded and consider the physical presence in the courtroom so that the case can be decided immediately. A reflection of the efficiency and effectiveness as a result of this information technology, namely the use of digital compared to a pile of

files in tracing petitions and submitting evidence, is the impact of technology applied by the court.

State Institutions in a New Vision

Constitutional Justice Saldi Isra was the keynote speaker in the Webinar for the Study of the Book "State Institutions" by Saldi Isra on Saturday (3/4/2021) afternoon organized by the Faculty of Law (FH) Krisnadwipayana University. "State institutions are important in the abstract concept of the state. A new state becomes something concrete if it is implemented by the main instruments built in the Constitution of a country, driven by the state apparatus itself which is often referred to as state institutions," said Saldi to the participants of the webinar.

Talking about the book "State Institutions" by Saldi is about finding other things that can distinguish them from books with the theme of state institutions. According to Saldi, one of them is that the author rarely looks at state organs through the decisions of the Constitutional Court (MK). Therefore,

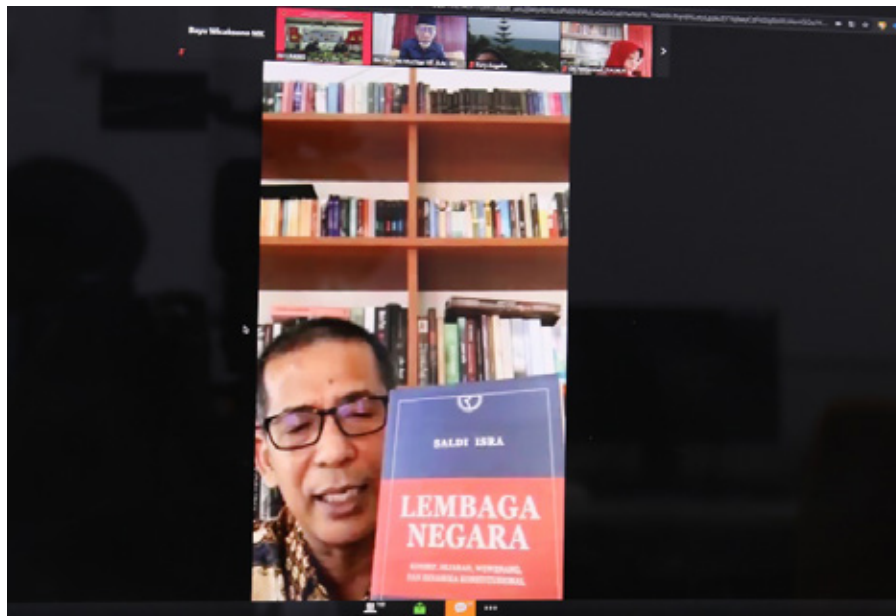
something new is offered in this book regarding the decisions of the Constitutional Court which provide a new perspective on state institutions.

"If you look at this book, the introduction already refers to the Constitutional Court's Decision. For example, when I refer to what is a state institution in terms of concepts and all kinds of things. Then I referred to how the Constitutional Court gave an understanding of state institutions. Then the Constitutional Court's decision emerged which gave an understanding that state institutions could be divided into main state institutions and supporting state institutions," said Saldi.

One of the meanings of state institutions referred to by the Constitutional Court, continued Saldi when there was a decision on how to view the Judicial Commission (KY) among the state institutions produced in the Amendment to the 1945 Constitution (UUD). Regardless of whether people agree or not with the Constitutional Court's decision, at least, the Constitutional Court's decision related to KY adds new literature and understanding for us about state institutions. State institutions in the sense of the Constitutional Court consist of main state institutions and supporting state institutions.

Pictures of Law Enforcement in Indonesia

35 participants from the Lewu Harati Cadre School attended a web seminar (webinar) organized by the Central Kalimantan Youth Forum (Forpeka) on Sunday (4/4/2021). Constitutional Justice Daniel Yusmic P. Foekh was present virtually to share knowledge with the participants who came from cross-religious and scientific backgrounds who are domiciled in Central Kalimantan. On this occasion, Daniel delivered a material entitled



"Rightful Law". In his presentation, Daniel invited the webinar participants to

In his explanation, Daniel urged the webinar participants to explore the portrait of law enforcement in Indonesia. In 2020, according to the index of a state based on the rule of law, Indonesia was ranked 59th out of 128 countries studied by World Justice Projects. In this case, eight factors are used as parameters, including open

Constitutional Justice Saldi Isra was the keynote speaker in the Webinar for the Study of the Book "State Institutions" by Saldi Isra on Saturday (3/4/2021) afternoon organized by the Faculty of Law (FH) Krisnadwipayana University. Photo: Public Relations/Bayu.

government, the level of security and order, the enforcement of justice for civilians, and the handling of criminal cases.

Concerning law enforcement, Daniel said that this is certainly not far



Constitutional Justice Daniel Yusmic was the source person for a webinar organized by the Central Kalimantan Youth Forum (Forpeka) on Sunday (4/4/2021) in Jakarta. Photo: Public Relations/Panji.



Saldi Isra became the speaker for the Webinar “The Establishment of the Post-Amendment Act of the 1945 Constitution”, which was organized by the Center for Constitutional Studies (PUSaKO) of the Faculty of Law, Universitas Andalas collaborating with the Hanns Seidel Foundation (HSF) on Thursday (08/04). Photo: Public Relations/Panji.

from a discussion of law enforcement systems and agencies. According to Lawrence M. Friedman, the legal system is divided into three parts: structure and institutions, material or substance, and aspects of legal culture. Daniel explained that the legal culture aspect is still powerless in Indonesia. Legal divisions are formed as something united into a whole and closely interrelated, including criminal law, civil law, environmental and international law. A legal subsystem is also developed in terms of legal issues, which are extensive.

As a concrete example, Daniel describes that the criminal law system in Indonesia has several divisions of the legal subsystem. For example, the investigative power can be exercised by the police, the prosecution power is given to the public prosecutor, and the judicial power is the responsibility of the judiciary, including the existence of the Law on Advocates, which is also part of the granting of authority for advocates in law enforcement. “With the existence of legal division, the mechanisms and stages, as well as the institutions that are authorized to carry out dispute

resolution, are different,” said Daniel.

Discussion of the Amendments to the 1945 Constitution

Constitutional Justice Saldi Isra became the speaker for the Webinar “The Establishment of the Post-Amendment Act of the 1945 Constitution.” This event was organized by the Center for Constitutional Studies (PUSaKO) of the Faculty of Law, Universitas Andalas, collaborating with Hanns Seidel Foundation (HSF).

At the beginning of the event, Saldi said that it is exciting to explore the process of establishing the law concerning the course of the history of Indonesian constitutional. “Because from time to time, significant differences exist regarding the establishment of laws in Indonesia,” said Saldi, who deliver keynote speeches.

When reading the 1945 Constitution before the amendment, the establishment of laws, including the political superstructure, is made simple. The limited provisions regarding

this matter in the Constitution have led to various interpretations regarding establishing laws. Saldi explained that at the beginning of the reformation in 1998, the Indonesian people desired to amend the 1945 Constitution. If someone read the treatise of the amendments to the 1945 Constitution, the initial idea to amend the 1945 Constitution is very simple. During the Old Order and New Order, the President’s term of office was long, and the power was extensive and dominant. Therefore, it became the initial idea to amend the 1945 Constitution.

As a result, there was a change in the 1945 Constitution, which was much more comprehensive, Saldi added. For example, one of the issues regarding the relationship between the People’s Representative Council (DPR) and the judicial power, especially in selecting the Supreme Court justices. When the selection process of the Supreme Court was improved, then suddenly, a new issue emerged. There was a buildup of cases in the Supreme Court. Therefore, other institutions had to be prepared, and finally, the Constitutional Court was created.

“Nowadays, there is a discourse on making limited amendments to the 1945 Constitution. It was impossible to do. If people talk about one point in the Constitution, then they will touch another point.

For example, suppose someone wants to tamper with the People’s Representative Council (DPR). In that case, they will have something to do with the People’s Consultative Assembly (MPR), the Regional Representative Council (DPD), the Constitutional Court (MK), the Supreme Court (MA), and others,” said Saldi.

In this context, one of the significant issues is the establishment of laws, Saldi added. Therefore, the amendments to the Constitution had a new and more ideal design related to establishing laws. However, in the

treatise of the amendments to the 1945 Constitution, which is related to the authority to establish laws, there is almost no discussion about establishing the laws in the presidential system. "Because the party who has the authority to amend the 1945 Constitution has agreed to maintain the presidential system of government," added Saldi.

Furthermore, Saldi reminded the figures present in the event who plan to write a book regarding the establishment of laws in order to understand the design of establishing the laws. "The Constitutional Court Decision No. 92 of 2012 provides a clearer explanation regarding the establishment of laws," said Saldi.

The Difference between Law Enforcement and Justice

Chief Justice of the Constitutional Court (MK), Anwar Usman, giving a public lecture at the Muhammadiyah Bima College of Law on Monday (12/04/2021). In this offline and online activity, the Chief Justice of the Constitutional Court explained the theme "The Authority of the Constitutional Court of the Republic of Indonesia in Realizing Social Justice."

"The social justice to be realized is not in the hands of the Constitutional Court nor the hands of anyone, but it is in our hands, together. The Constitutional Court can only make a correction when the President and the People's Representative Council (DPR) reviewed a product," said Anwar Usman.

Anwar further said that the obligations of the Constitutional Court and the Supreme Court and their subordinates based on the post-amendment Constitution are to uphold the law and justice. According to Anwar, this statement is also confirmed in the Qur'an Surah An-Nisa, which ordered humans to give equal punishment to



Chief Justice of the Constitutional Court (MK) Anwar Usman gave a public lecture at the Muhammadiyah Bima College of Law on Monday (12/04/2021).

people, not mere sentences according to the rules.

"Law enforcement is not synonymous with justice enforcement. Enforcing the law does not necessarily enforce justice. Therefore, a world figure, Mahatma Gandhi, said that the highest Court is the Court of the heart because justice can be felt by the heart," explained Anwar.

Anwar said that the Constitutional Court had enforced social justice through its decisions many times, among others, are the decisions of the Law on Water Resources, the Law on State Budget (APBN), which regulates the education budget, the Law on BPJS, and several other Laws. However, like the Supreme Court and the judicial institutions, the Constitutional Court can only judge if something goes wrong.

Judicial Institution, Balancing the Legislative and Executive

Constitutional Justice Saldi Isra was the keynote speaker and opened the book review entitled "Judicial Review of Laws" by Achmad Edi Subiyanto on Saturday afternoon (17/4/2021). This event is a collaboration between

Universitas Esa Unggul Constitutional Advocate, and Rajagrafindo Persada Publisher.

On that occasion, Saldi said that the most frequent topic reviewed and analyzed is regarding the conflict of interest between the legislature and the judiciary in the discussion of the Act. "Why are these two institutions become the most frequently studied? It is because these two institutions basically one creates the rules, and the other is to implement the rules," said Saldi.

Saldi explained that in Indonesia, rules are the result of the authority of the legislators, and the executive executed the implementation of the law. He continued, if the checks and balances mechanism works, then there will be a balance. However, if not, a judicial institution is needed to balance the legislative and executive institutions.

"It is possible and has happened a lot in the practice of executive and legislative powers which are in the same party. Thus, the establishment of a law product negates the interests of the wider community. If this happens, then there can be no other institution that must be included in the context of those checks and balances, including



Constitutional Justice Saldi Isra was the keynote speaker and opened the book review “Judicial Review of Laws” by the Substitute Registrar of the Constitutional Court, Achmad Edi Subiyanto, on Saturday (14/04/2021), which took place online. Photo: Public Relations/Ilham.

the holder of judicial power, which is basically designed to be an institution that oversees the work of these two institutions,” said Saldi, the man who was born in Solok, West Sumatra.

Moreover, Saldi said that the book to be discussed was written by a person who, in theory, became a lecturer at a university and was involved in the proceedings at the Constitutional Court in practice. Therefore, this book should be able to provide information that is more comprehensive to the reader. He revealed that this book also includes information on the practice of constitutional complaints, how the practice of judicial review of laws is used as a mask by the Petitioner, even though what is being done is regarding constitutional complaints.

Saldi explained that the constitutional complaints mechanism practiced in Germany is very different from the judicial review of laws. Constitutional complaints in Indonesia have not yet become part of the Constitutional Court’s authority.

According to Saldi, nowadays, the idea for the Constitutional Court to have the power to make constitutional complaints has emerged. Two ways can be done if it becomes a necessity.

The first is by changing the authority of the Constitutional Court in the 1945 Constitution or by incorporating new rules in the law, such as the Constitutional Court’s authority to resolve the Regional Head Election disputes. “The second method is that the Constitutional Court interprets themselves. This is quite seriously discussed in this book,” said Saldi. Saldi also revealed that the Constitutional Court’s readiness should be considered if they are given the authority of constitutional complaints.

Remote Hearing Mechanism

Constitutional Justice Daniel Yusmic P. FoEkh became the speaker for the Special Education of Professional Advocate (PKPA), held online. This

event was held in collaboration with the Atma Jaya Unika Faculty of Law and the National Leadership Council of the Indonesian Advocates Association (DPN Peradi) on Saturday afternoon (17/4/2021).

“Today’s material presentation system includes the introduction, procedural law for judicial review, procedural law for disputes over the authority of state institutions, general elections and regional head elections disputes, procedural law for disbanding political parties and deciding the opinion of the People’s Representative Council (DPR) regarding alleged violations of the President and Vice President,” said Daniel Yang who presents the material “The Constitutional Court’s Procedural Law.”

Further, Daniel discussed general aspects of the Constitutional Court’s Procedural Law, which consisted of filing the petition, evidence, hearings, and decisions. According to Daniel, the petition must be submitted in writing using Indonesian and signed by the Petitioner or his proxy in 12 copies. The petition must be supported by evidence, then submitted directly to the Registrar, or submitted online. There is no court fee for filing the petition.

After that is the hearings, the hearings consist of a preliminary examination (panel) attended by three Constitutional Justices and an examination hearing (plenary) attended by nine Constitutional Justices or at least attended by seven Constitutional Justices.

“The hearing is always open to the public. The Petitioner can file a petition for a remote hearing in accordance with PMK Number 18 of 2009. Since the COVID-19 pandemic, many petitions have been submitted to the Constitutional Court online, including the petition of election results disputes,” explained Daniel.

According to Daniel, regarding the evidence, the most important

is in the form of letters or writings. In addition, it can be in the form of witness statements, the testimony of the parties, clues, and other evidence in the form of information that is spoken, sent, received, or stored electronically with optical devices or similar.

Daniel also explained the Constitutional Court's decision. The Constitutional Court adjudicates at the first and final levels, whose decisions are final. The Constitutional Court's decision has permanent legal force since it has been pronounced in a plenary hearing open to the public, according to Article 47 of the Constitutional Court Law. The power of the Constitutional Court's Decision is effective as of the end of its pronouncement in the plenary hearing.

Further, Daniel mentioned the Procedural Law of Judicial Review (PUU). The Judicial Review (PUU) objects are laws and Government Regulation in

Lieu of Law (Perpu). While the type of Judicial Review (PUU) consists of formal judicial review related to the process of establishment of law and material judicial review related to the content of the law.

The Petitioners in the Judicial Review (PUU) are individual citizens of the Republic of Indonesia (including groups of people who have the same interests), customary law community units as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia (NKRI) as regulated by law, as well as public or private legal entities, and state institutions.

Daniel further explained that the petition of Judicial Review (PUU) uses the term "petition," not a lawsuit as in the practice of procedural civil law because it does not contain a contentious conflict of interest. In judicial review of laws,

the People's Representative Council (DPR) and the President/Government, including the Regional Representative Council (DPD), are not the opponents of the Petitioner. However, they serve as the Informant. The format for the petition of judicial review of laws is the identity of the Petitioner, the authority of the Constitutional Court, the legal standing, the reason for the petition for review, the *Petition*.

In this event, Daniel also clearly explained the Procedural Law for SKLN, the Procedural Law for PPHU/Regional Head Election, the Procedural Law for Disbanding Political Parties, Procedural law for Deciding the Opinion of the DPR regarding Alleged Violations of the President and Vice President. ■

SRI PUJIANI/PANJI/ILHAM M. WIRYADI/NANO
TRESNA ARFANA/ LULU ANJARSARI P/NUR R



Constitutional Justice Daniel Yusmic P. FoEkh became the speaker for the Special Education of Professional Advocate (PKPA), held online collaborating with the Atma Jaya Faculty of Law and National Leadership Council of the Indonesian Advocates Association (DPN Peradi) on Saturday (17/04) in Jakarta. Photo: Public Relations.



CHIEF JUSTICE OF THE CONSTITUTIONAL COURT TALKING ABOUT COOPERATIVES AND THE SUCCESS OF THE 2020 REGIONAL HEAD ELECTIONS

Chief Justice of the Constitutional Court Anwar Usman opened the Annual Members Meeting (RAT) of the Constitutional Cooperative on Wednesday (31/03) in the Hall of the Constitutional Court Building. Photo: Public Relations/Ifa

The presence of a Constitutional Judge in an activity is not only related to his function as a figure who takes part in the judiciary. On other occasions, Constitutional Judges can show their social and economic roles in society.

Creative Spirit for Cooperative Management

The Annual Member Meeting (RAT) of the Constitutional Cooperative was held on Wednesday afternoon (31/3/2021) in the hall of the Constitutional Court Building. Chief Justice of the Constitutional Court, Anwar Usman, said that the cooperative management agreed to raise the theme "Pandemic: Momentum for Creativity and Care" at the Constitutional Cooperative's Annual Member Meeting (RAT). "This theme shows that the cooperative management still has enthusiasm in performing their duties to manage cooperatives as well as possible amid pandemic. Further, as people have known, it is hoped that the welfare of

the members of the cooperative can be maintained with the spirit of creativity in working amid the pandemic," said Anwar at the opening of the Annual Member Meeting (RAT) of the Constitutional Cooperative, which was held online and attended by the management and members of the cooperative.

Anwar stated that it is undeniable that the current COVID-19 pandemic has impacted various sectors, including cooperative management. Apart from the cooperative issue, Anwar said that Indonesia's diversity as a nation is often not smooth as expected.

"However, it should be understood that if we compare our problems with other countries in the world, then we should be grateful. For instance, the problems that occurred in the City of Catalonia where they were trying to separate themselves from Spain. The

events that happened to the Rohingya in Myanmar, and the coup in Thailand a few years ago, and Zimbabwe, as well as the political upheaval in Egypt and many other examples, are a testament that it is not easy to manage the diversity and social life of democracy in a country. From those examples, we should be grateful that the management of our diversity is still much better than of those countries," explained Anwar.

A meeting of Constitutional Justices and Supreme Court Justices worldwide was held in Mexico City in 2012. Anwar had informal conversations with judge colleagues from several countries. At that time, the topic of discussion was the management of democracy in each country. They asked about the system and implementation of democracy in Indonesia.

"I explained to my colleague judges from some of these countries that democracy in Indonesia uses a direct election system, including the election of Regents, Mayors, Governors, to the President as well as for the election of legislative members at the Regional and Central levels, where everyone has the same voting rights. At first, they did not understand that

the democratic process in Indonesia is based on the diversity of Indonesia, which consists of a diverse range of ethnicity, regional language, race, and religion. The geographical area of Indonesia is rich with thousands of islands and a population of not less than 250 million people. They were surprised by the detailed explanation. They asked how it is possible that democracy can be carried out directly with such a high level of diversity from various aspects. It can take place and be carried out in relatively peaceful conditions. For them, it is very difficult to understand," said Anwar.

As we know, the Annual Member Meeting is a mandatory agenda for every cooperative business entity because it will discuss the accountability of cooperative management for one year to cooperative members. The Annual Member Meeting of the Cooperative Constitution is a forum for employees of the Constitutional Court to determine the direction of the cooperative in the future. At the same time, the Annual Member Meeting is a vehicle for the employees of the Constitutional Court to convey matters related to employee participation in the Cooperative Constitution.

Thanks to the cooperation of all parties

Chief Justice of the Constitutional Court Anwar Usman became the speaker in the inter-internal coordination meeting of the Indonesian Ministry of Home Affairs, Cross-Sector, other Ministries/Institutions, and Local Governments held at the Pancasila Education Center and the Constitutional Court Constitution on Friday (9/4/2021).

In the event with the theme "The Court's Authority in Reviewing the Regional Head Elections Results Disputes," Anwar said that the Regional Head Election is a means for the people to elect a leader who becomes their direct representative in the regional government. He said that in order to maintain the purity of the votes, the election must be designed with good planning. Thus, the Regional Head Election, which is the mandate

of Article 18 paragraph (4) of the 1945 Constitution, can be realized by implementing good democratic values.

When discussing the simultaneous regional elections, Anwar said that the national agenda had been implemented from 2015 to 2020, and later the national agenda would be held simultaneously in 2024. In fact, he continued, although the Regional Head Election is the responsibility of the General Elections Commission (KPU) as the organizer and the General Election Supervisory Body (Bawaslu) as supervisors, various parties, including The Ministry of Home Affairs (Kemendagri), can be a part that plays a significant role in the success of the election.

In addition to these parties, the Honorary Council for General Election Organizers (DKPP) is responsible for the mechanism of election fraud and violations related to the code of ethics. The General Election Supervisory Body (Bawaslu) is responsible for administrative violations. While Gakumdu has the authority related to an election crime. Constitutional Court is responsible for dispute resolution of the final results of the election process.

Anwar admitted that implementing the 2020 Simultaneous Regional Head Elections is not easy due to the pandemic. Several other countries, such as South Korea and Sri Lanka, have

successfully held general elections. As religious people, we must believe that (the COVID-19 pandemic) is a test and destiny that must be handled wisely.

"Thanks to good cooperation, the 2020 Regional Head Elections run democratically according to the mandate of the Constitution and applicable laws and regulations. It had been carried out as well as possible following the health protocols. Better cooperation can be a common capital in facing the challenges ahead," said Anwar in an event attended by participants from the Legal Bureau of the Ministry of Home Affairs of the Republic of Indonesia virtually.

At the end of the presentation, Anwar expressed his hope that government officials and agencies, especially the participants in this coordination meeting, will determine the country's sustainability because the state exists due to the regions that unite the Republic of Indonesia. Furthermore, Anwar also hopes that government agencies can further echo the existence of the Constitutional Court and its function as an institution that oversees the Constitution. Thus, the Constitutional Court is increasingly recognized for its essential role in maintaining the Constitution and the constitutional rights of citizens. ■

SRI PUJANTI/ NANO TRESNA ARFANA/LULU ANJARSARI P



Chief Justice of the Constitutional Court Anwar Usman became the speaker at the inter-internal coordination meeting of the Indonesian Ministry of Home Affairs, Cross-Sector, other Ministries/Institutions, and Local Governments, which was held at the Pancasila Education Center and the Constitutional Court Constitution on Friday (9/4/2021).



SECRETARY OF THE CONSTITUTIONAL COURT COMPLETELY DISCUSS THE AUTHORITY DISPUTE OF STATE INSTITUTIONS

Secretary-General of the Constitutional Court M. Guntur Hamzah became the speaker of the webinar held by the Faculty of Law, Universitas Airlangga, on Tuesday (30/3) at the Constitutional Court Building. Photo: Public Relations/Ifa.

SECRETARY-General of the Constitutional Court, M. Guntur Hamzah, discuss comprehensively the procedural law of the authority dispute of state institutions (SKLN) in the Public Lecture of Alumni Class held by the Faculty of Law, Universitas Airlangga (FH Unair) on Tuesday (30/3/2021). In front of 45 participants, Guntur virtually presented material entitled "The Settlement of the Authority Dispute of State Institutions at the Constitutional Court."

Guntur thoroughly reviewed the procedural law of the authority dispute of state institutions (SKLN). According to Guntur, the parties must understand several vital points before petitioning the authority dispute of state institutions (SKLN) case to the Constitutional Court. The parties need to be familiar with the terms Petitioner, Respondent, and Relevant Party. According to Article 3 paragraph (1) of PMK Number 8/PMK/2006, the Petitioner of the

authority dispute of state institutions (SKLN) is state institutions that consider their constitutional authority to be taken, reduced, blocked, ignored, and harmed by other state institutions. In this regard, Guntur also explained that two elements must be considered in submitting oneself as a Petitioner in the authority dispute of state institutions (SKLN) case. It includes understanding the institution's authority as regulated in the 1945 Constitution and its authority having a direct interest in the disputed issue.

Guntur introduced the steps that must be prepared and carried out when the Petitioner wants to file the authority dispute of state institutions (SKLN) case. In its petition, the Petitioner can file a case that has been written with a predetermined systematic. Guntur invited the participants to access the Constitutional Court's website, which the public can open from any location

to understand the systematics and elements contained in a petition.

At the end of the session, Guntur explained the types of the Constitutional Court's decision regarding the authority dispute of state institutions (SKLN) case, including decisions that cannot be accepted, granted, and rejected. After explaining the material, Guntur allowed the participants to ask questions and give feedback. At the end of the activity, Guntur invited the students to visit the website www.mkri.id page to study, understand and observe various authority disputes of state institutions (SKLN) cases that the Constitutional Court has resolved. It is necessary because the students can understand more about the authority of the Constitutional Court regarding disputes over state institutions. (Sri Pujianti/Nur R)

Civil Servants' Family from the Constitutional Court Take Part in Vaccination to Anticipate the Spread of COVID-19

THE CONSTITUTIONAL Court (MK) held a mass vaccination program to anticipate the spread of COVID-19 for their employees on Monday (5/4/2021) in the building hall of the Constitutional Court. The Chief Justice of the Constitutional Court Anwar Usman and the Secretary-General of the Constitutional Court were present at this event. They were also vaccinated.

The mass vaccine activity to anticipate the spread of COVID-19 this time is aimed at 800 employees of the Constitutional Court, including Civil Servants (PNS), Non-Civil Servant Government Employees (PPNP)



Assistant Employees, and Mancadaya Staff, starting from morning to evening. The family and relatives of the civil servants of the Constitutional Court also participate in this program.

The vaccination activities to anticipate the spread of COVID-19 were carried out due to the support of the Ministry of Health that monitors the implementation of vaccinations. Furthermore, the National COVID-19 Handling Task Force Team, Ministry

of State Secretariat, others, and the health workers from various hospitals also support the implementation of this activity. Previously, the Constitutional Court had carried out mass vaccination as an anticipatory measure of the spread of COVID-19 attended by Constitutional Justices, some staff at the Court's Registrar Office, and 750 other Constitutional Court employees. (Nano Tresna Arfana/Lulu Anjarsari P.)



Secretary-General of the Constitutional Court: Judicial Control to Protect Citizens' Rights

SECRETARY-General of the Constitutional Court M. Guntur Hamzah became the speaker for a webinar with the theme "Judicial Control Against Abuse of Authority of Agencies and/or Government Officials After the Job Creation Act" on Wednesday (7/4/2021).

The Supreme Court organized this event in the framework of the three decades of State Administrative Courts.

Guntur explained the nature of judicial control over government officials from the perspective of state administrative law. According to Guntur, absolute judicial control is carried out by the judiciary to make corrections to the practice of using authority and enforcing the principles of good government. Judicial control has many aspects, including preventing any form

of deviation from the government's duties. Judicial control is one of the main characteristics of judiciary duties, namely to assess the legality of the government's actions.

Furthermore, Guntur explained that judicial control is the authority of agencies outside the power of the government or the courts to keep administrative actions within legal limits. Judicial control oversees the government's actions on the decisions they made and matters outside the decisions, including judicial review. In addition, Guntur said that judicial control implies that citizens can 'challenge' wrong administrative actions in Court. The primary objective of judicial control is to protect citizens' rights and freedoms by ensuring the legality of administrative actions. While the ultimate goal of judicial control over administrative actions is to ensure their legality and thereby protect citizens from violations against laws, constitutional rights, and other rights. (Nano Tresna Arfana/Nur R.)



Secretary-General of the Constitutional Court Reveals Types of Violations in General Election and Regional Head Election Disputes

SECRETARY-General of the Constitutional Court M. Guntur Hamzah became the speaker at the National Webinar with the theme "The Urgency of the Election Law Reform for Strengthening Democracy in Indonesia." This event is organized by the Master in Law Programs, Faculty of Law, Universitas Pamulang, South Tangerang, on Saturday morning (17/04) virtually.

On this occasion, Guntur delivered a material entitled "The Perspective of the Constitutional Court's Decision for Strengthening Democracy and the Implementation of Elections in Indonesia." Guntur explained that the primary function of elections is to produce leadership closely related to the will and choice of the people. According to Guntur, several requirements must be met in order to achieve a democratic and aspirational election. These requirements include that elections must be competitive, held periodically,

inclusive, pressure-free, informative, and independent.

Guntur said that the elections in Indonesia are to fill government positions, such as President and Vice President, members of the legislature, and Regional Heads, including Governors, Regents, and Mayors. The 2024 elections will be held directly and simultaneously. Guntur hopes that all violations that occur in the general election can be resolved by their respective departments, such as General Election Supervisory Body (Bawaslu), Administrative Court, Gakkumdu, the Honorary Council for General Election Organizers (DKPP) until finally resolved in the Constitutional Court.

Guntur revealed the violations that occurred in the general election results dispute case and were proven in Court. Violations are generally related to voting recapitulation and vote count. It includes the manipulation of candidate votes,

either by increasing the vote share of a favored candidate or depressing the vote share of rival candidates, errors in recording the share of votes, errors in vote recapitulation from different forms, data discrepancy in the c1 form, c1 Plano, and c1 hologram. In addition, there were Bawaslu recommendations that were not followed up.

"This has implications for the Constitutional Court's decision, where the Court is more thorough, detailed, and careful to determine the correct vote results. Thus, the court order the organizers to hold a vote recount or to re-vote. All of this is due to the frequent violations that occur in the elections made by the candidates or organizers," said Guntur.

Furthermore, Guntur revealed statistics on Regional Head Election decisions starting from 2016, 2017, 2018, and 2020. The number of cases that were "accepted" by the Constitutional Court has increased. The Constitutional Court sees that there is hope for the community to get justice. Therefore, the Constitutional Court in deciding cases provides not only procedural justice but also provides substantive justice. (Bambang Panji Erawan/Nur R)

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