

KONSTITUSI

Solving The Pro-Cons of Corruption Eradication Commission (KPK) Employee Selection

KPK
Komisi Pemberantasan Korupsi

LIPUTAN KHAS



J-OIC

Judicial Conference of Constitutional
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the OIC Members States/ Observer States

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Editorial Greetings

The news emerged from the end of August to mid-September 2021 are overwhelming, both from the courtroom of the Constitutional Court (MK) and the Court's activities outside the hearing. Phenomenal information occurred during the hearing of the pronouncement of the decision on Law no. 19 of 2019 concerning the Corruption Eradication Commission (KPK Law).

The Constitutional Court handed down a decision on the judicial review of Law no. 19/2019 on Tuesday (31/8/2021), angrily rejecting all requests by M. Yusuf Kahide as the Petitioner for Case 34/PUU-XIX/2021. Although the pronouncement of a quo decision was colored by concurring opinions from the four constitutional judges.

One of the Court's legal considerations in the Decision on Case 34/PUU-XIX/2021, the design for the transfer of employees of the Corruption Eradication Commission (KPK) to the State Civil Apparatus (ASN) aims to strengthen the independence of the KPK without denying the existence of other rules related to ASN, namely Law No. 5 of 2014 which binds the entire ASN corps.

In this edition, Special Report presents the success of the Bandung Declaration that ratified the CCJ-OIC forum. In addition, a detailed discussion of the CCJ-OIC and the 2nd Conference of the Judicial Conference of Constitutional and Supreme Courts/Councils was discussed by the OIC Member States/ Observer States (J-OIC) in Bandung, West Java, on September 15-17, 2021.

This is a brief introduction from the editor. There is much other interesting information that can be listened to by the loyal readers of KONSTITUSI Magazine. Finally, we wish you enjoy reading!



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26

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CCJ-OIC FORUM IS INAUGURATED THROUGH BANDUNG DECLARATION

On September 17, 2021, the Conference of Constitutional Jurisdictions of OIC Member States (CCJ-OIC) was inaugurated. The forum initiated by five countries, namely Indonesia, Turkey, Algeria, Pakistan, and Gambia as the working committee, succeeded in establishing a constitutional jurisdiction for member countries of the Organization of Islamic Cooperation (OIC).

EDITORIAL GREETINGS **1**

EDITORIAL **3**

MAIN REPORT **4**

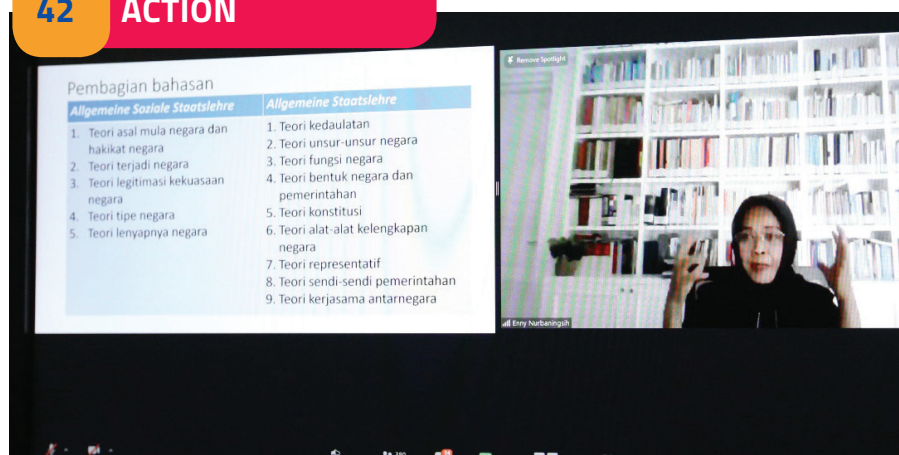
KALEIDOSCOPE **10**

VARIETY OF FIGURES **14**

ACTION **18**

42

ACTION



CONSTITUTIONAL COURT JUDGES REVIEW LEGAL MATTERS, JUSTICE, AND THE AUTHORITY OF THE CONSTITUTIONAL COURT

CIVIC KNOWLEDGE TEST

From issues regarding the recruitment of State Civil Apparatus (ASN) that had become a serious discussion among the public, none has occurred beyond the Civic Knowledge Test (TKW) for the Corruption Eradication Commission (KPK) employees as a way to change status to State Civil Apparatus. No wonder, since it was carried out from March 18 to April 9, 2021, by the Corruption Eradication Commission in collaboration with the State Civil Service Agency (BKN) against 1,361 KPK employees, public opinion bloomed everywhere.

Voices from internal Corruption Eradication Commission (KPK), the implementation of Civic Knowledge Test is following Article 5 paragraph (4) of Commission Regulation (Commission Regulation) 1 of 2021 concerning Procedures for Transferring KPK Employees to State Civil Apparatus Employees. The Commission Regulation is a derivative of Law Number 19 of 2019 concerning the KPK and Government Regulation (PP) No. 41 of 2020 concerning the Transfer of KPK Employees to State Civil Apparatus employees. Referring to the legal provisions, the requirements that must be met by KPK employees in order to pass the Civic Knowledge Test assessment are (1) loyal and obedient to Pancasila, the 1945 Constitution, the Unitary State of the Republic of Indonesia, and the legitimate government, (2) not being involved in organizational activities prohibited by the government and or court decisions; and (3) having good integrity and morality.

After the Civic Knowledge Test was carried out, 1,271 employees passed and were inducted as State Civil Apparatus on June 1, 2021. Meanwhile, 75 employees were declared not to have passed the Civic Knowledge Test. 24 people can still be fostered. It means that there are 51 KPK (Corruption Eradication Commission) employees who will be dismissed. Of the 24 people, 18 people have participated in state defense training at the Indonesia Defense University and will soon be sworn in as State Civil Apparatus. Only 57 KPK employees would be honorably dismissed on November 1, 2021.

As with other previous issues concerning the KPK (Corruption Eradication Commission), public views are divided. If it didn't occur at the KPK, it would not necessarily mean that the split of opinion would occur. Once again, because this is the KPK, which of course can't be separated from the issue of eradicating corruption, there are many people's voices from the media to the media with their respective arguments and beliefs.

Some consider it normal and legitimate as a method that is under the authority of the KPK (Corruption Eradication Commission) itself. It seems to be more silent. Maybe it's true, silence is a sign of agreement. On the other side, there was a group bustling giving refusals. The question is that the Civic Knowledge Test process for KPK employees is considered not transparent and contains several maladministration. In fact, this group demanded that President Jokowi intervene immediately. The media stage was set up filled with opposition to the Civic Knowledge Test of KPK employees. It is long

enough and durable to become media headlines day by day.

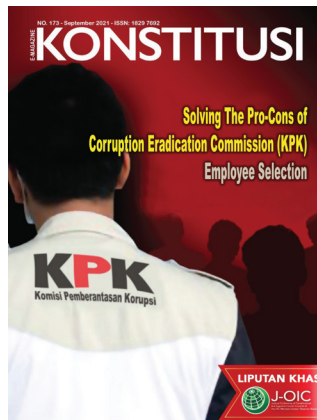
The forums of official state institutions interestingly were chosen as a way of struggle. This is what should be appreciated by the 'warriors'. At least four state institutions have been reported to and participated in providing analysis as well as legal decisions on the Civic Knowledge Test process. The four state institutions are the Ombudsman of the Republic of Indonesia, the National Human Rights Commission (Komnas HAM), the Constitutional Court, and the Supreme Court.

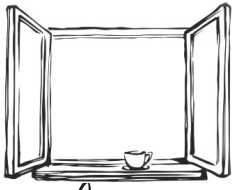
75 KPK (Corruption Eradication Commission) employees on May 19, 2021, reported to the Indonesian Ombudsman because they suspected that there was alleged maladministration carried out by the KPK leadership in the implementation of the Civic Knowledge Test. Almost 2 months later, namely on July 21, 2021, the Ombudsman in the Final Examination Report (LAHP) announced the existence of maladministration acts carried out by the KPK and other related parties. On May 24, 2021, representatives of KPK employees, including Novel Baswedan, complained to National Human Rights Commission (Komnas HAM). There are eight issues considered as alleged human rights violations in Civic Knowledge Test. As a result, on August 16, 2021, Komnas HAM stated that there were 11 forms of human rights violations in the Civic Knowledge Test.

On June 24, 2021, the Executive Director of KPK Watch Indonesia Yusuf Sahide submitted a judicial review to the Constitutional Court so that two articles in Law No. 19 of 2019 concerning the KPK contradict the 1945 Constitution. The two articles are Article 69B paragraph (1) and Article 69C. On August 31, 2021, the Constitutional Court rejected the lawsuit with 4 Constitutional Justices expressing concurring opinions.

On May 27, 2021, two KPK employees who did not pass Civic Knowledge Test; Yudi Purnomo and Farid Andhika. They also submitted a judicial review to the Supreme Court. The material test is related to Commission Regulation No. 1/2021 considered contrary to Law Number 19 of 2019 concerning the KPK and the Decision of the Constitutional Court Number 70/PUU-XVII/2019 dated May 4, 2021. On September 9, 2021, the Panel of Judges for a judicial review of the Supreme Court rejected the request.

4 (four) routes that have been taken, at least 2 legal institutions, the Constitutional Court and the Supreme Court, have rendered decisions. It means that the problem regarding Civic Knowledge Test should have received a legal answer. In other words, the legal problem applied must be considered finished. Regardless of whether the disputing parties agree or not, satisfied or not, the breaking point has been reached. The answer or legal solution to the Civic Knowledge Test problem for KPK (Corruption Eradication Commission) employees should be understood and accepted as a representation of our awareness and commitment to the meaning of the Indonesian rule of law. As it has been known, one of the prerequisites for upholding the rule of law is respect for court decisions, especially since the process is open and carried out fairly. Long Live Constitution!





Window

MAGNA CHARTA UNIVERSITATUM

I D.G.Palguna

“An age is called Dark, not because the light fails to shine, but because people refuse to see it”

James Albert Michener, American Author.



It was the college’s 900th anniversary. The signed document was similar to the “manuscript of the proclamation” which we later know as the Magna Charta Universitatum (Grand Charter of the University). This manuscript is considered to be a document containing a “celebration” of university traditions, with special emphasis on the philosophical meanings contained in the concepts of academic freedom and institutional autonomy.

Why was it conducted in Bologna? The answer to this question has nothing to do with Bologna’s status as the capital of the Emilia-Romagna region. Magna Charta Universitatum (MCU) is a charter full of messages of civilization. Hence the question “Why is it conducted in Bologna?” also feels like an invitation to look back, to history. Isn’t civilization—says historian Arnold Toynbee—is the result of a “challenge” with a response? In historical flashes, Bologna is one example of the truth of Toynbee’s “postulate”.

Western Europe, a part of the continent that has been the center of science for centuries, had experienced a very long period of darkness: five hundred years (Years 400 to 900). That

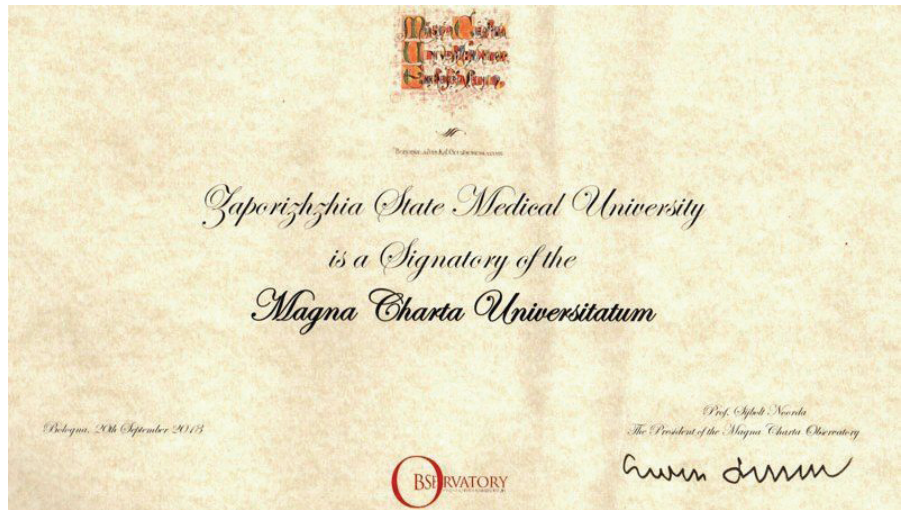
was the Dark Ages. Scholars identify the Dark Ages as the early part of a period called the Middle Ages, a century that is difficult to map precisely because experts on average only “mark” the Middle Ages as a period between the end of the Roman Empire and the end of the Roman Empire by the 1500s after Christ. The end of the Roman Empire is not identified with certainty because it took place slowly over hundreds of years - although historians generally say the Middle Ages began around the year 400 AD. It means that the so-called Middle Ages span more than a millennium. If the Dark Ages (which spanned 500 years) were said to be the beginning of the Middle Ages, it would mean that almost half of the Middle Ages was filled with “darkness.”

The period from 400 to 900 AD is called “dark” because at that time European (Western) civilization was at its lowest point. The reason is the loss of learning traditions. Knowledge from previous civilizations, namely from the time of the Ancient Romans and Greeks, is barely traceable. Even if they do exist, they survive only in monasteries, cathedrals, or royal schools. What is the impact? People

On September 18, 1988, a historic event took place in the city of Bologna. It was a match for the scudetto—a symbol in the form of a shield decorated with green, white, and red colors that symbolizes the Italian flag that is entitled to be worn by a football club that has won the Italian Serie A-League. This historic event was the signing of a document by hundreds of rectors and university leaders in Europe and outside. The University of Bologna (together with the European Rectors’ Conference) was a pioneer.

believe in (and live in) rumors. This is where James Michener's words above find their justification. In fact, at the same time, in Eastern Europe, the Byzantine Empire was victorious with its civilization. Ironically, the glory was obtained from the development of Roman and Greek civilizations.

Concerning the social system, it was in the Dark Ages that the feudal system grew and flourished—a social system consisting of and formed by the workings of three social classes: nobles, clergy, and slaves. Each class has a defining role. There are no elements of state or government. Each individual or class has its important role and is interdependent and complementary to each other which is centered on land tenure, service, and loyalty. In such a system, the solidarity that is built—if “borrowing” the groupings of society according to Emile Durkheim—is solidarity, namely solidarity that is formed because of the interdependence between classes in a pyramid-shaped social structure. The class at the top of the pyramid is the king and the nobles who are also landowners. Below him, there were the vassals who were in charge of allocating these lands to the lesser vassals down until the bottom of the pyramid; the slaves. There was a relationship and at the same time layered responsibilities that culminated in the king and the nobles. Each person in each layer had their roles and responsibilities. Meanwhile, each layer was responsible for the layer above it whose peak is the king and the nobles. The responsibilities referred to are both in the form of services (both manual and military) as well as in the form of giving tribute (as “rent” from land cultivation). What laws were used to regulate society in such a manner? “There was an overlap between feudal law, landowner law, local customary law, remnants of law from Roman



times, and church law,” says Brian Tamanaha. How to apply it? It is unclear.

Furthermore, in the early twelfth century, thoughts toward the formation of a “modern” state began to emerge when the need for an effective judiciary and tax collection system began to be felt. The impetus was that they received legal education and served the king. At almost the same time, there was also a passion for discovering and reviewing the works of Aristotle and the Corpus Iuris Civilis, more popularly known as the Code of Justinian, which is a collection of major legal theories dating from 529–534. These legal theories were created and compiled by the order of Emperor Justinian of Byzantium. This period was considered the starting point for the revival of Western Europe to come out of the darkness. During this period, several universities were also established.

The University of Bologna is one of the foremost universities established of that passion. The college that has the “original” name *Universitá di Bologna* is estimated to have been founded in 1088 by a group of scholars (*studiorum*). It is explained how the glossators (experts and commentators

on Roman law) were very excited to study *Corpus Iuris Civilis* a.k.a Justinian’s Code at this university. Therefore, it is not surprising that the spirit of honoring the law was the basis for its establishment (although, later on, what made the name of the University of Bologna soar was mostly its “non-jurist” alumni). Read his motto, “*Petrus ubique pater legum Bononia mater*” (St. Peter is everywhere the father of law, Bologna is its mother). This college was the first to use the term “University” for teaching and learning activities between lecturers and students which later raised the name Bologna University. Notable alumni of the University of Bologna include Bishop Alexander, Dante Alighieri (Italian poet and author and philosopher from the 14th century), Erasmus (Dutch scholar and philosopher), Pope Gregory XIII (who compiled the Gregorian Calendar), Nicolaus Copernicus (an expert mathematician who is also an astronomer with his theory that places the sun at the center of the solar system), and many more.

The MCU signing that took place in Bologna does not appear to

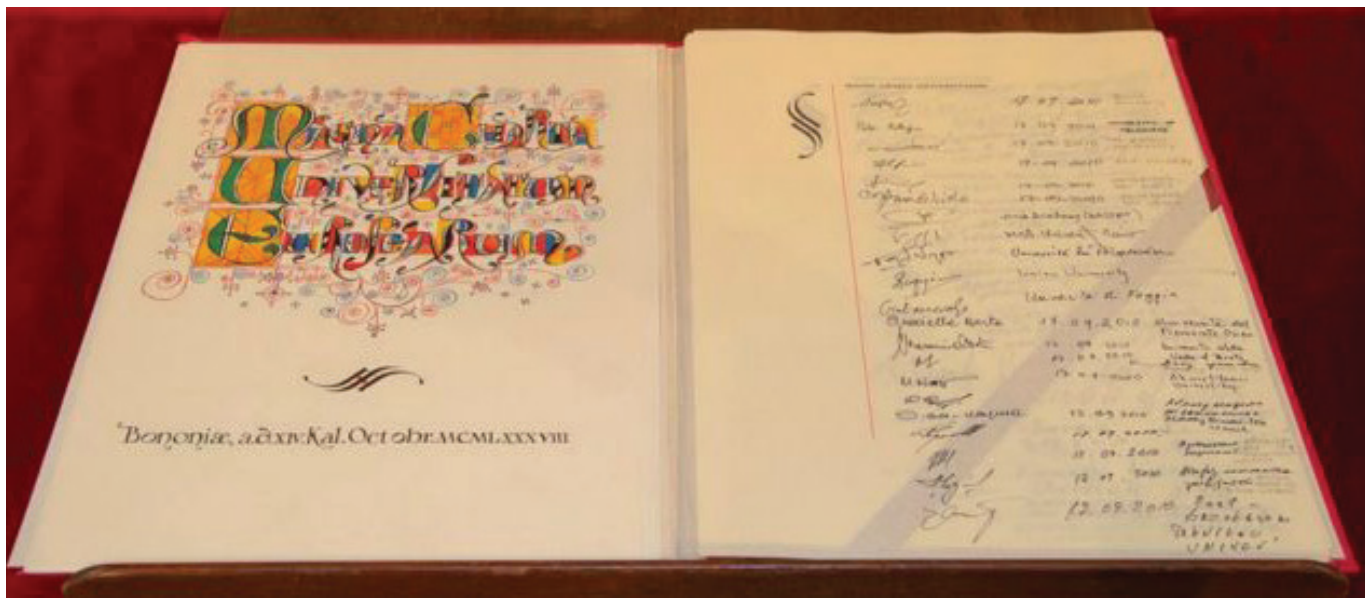
be an ordinary historical trajectory. Signed by 366 chancellors, this Charter emphasizes (again) that universities are autonomous institutions that produce, examine, evaluate, and transmit culture through research and teaching. Therefore, they must be morally and intellectually free from all influences of political power and economic power; that governments and universities must guarantee the independence of teaching and research which is a fundamental principle of university life; that the university rejects all forms of intolerance and is always open to dialogue; and that the university is the “guardian” of the humanist tradition (c.q. the European humanist tradition).

The message that the MCU was trying to convey is very clear, the future of mankind will depend very much on the development of culture, science, and technology of which universities are the focal point. Let no one put any doubt on the “claim”. Thus, many

people were shocked when Tom Nichols—an expert on international relations—published his book with a fairly “provocative” title, *The Death of Expertise: The Campaign Against Established Knowledge and Why It Matters* (2017). This is not a novel. This non-fiction book showcases the analysis as well as the author’s criticism (which is difficult to separate from irritation) of the emergence of anti-science phenomena carried out by various forces in American society who are trying to undermine the authority of experts. His words—in the book—are the most frequently quoted, “These are truly dangerous times. Never before have so many people had access to knowledge and yet were so reluctant to learn anything.”

What is going on in this world? Is this a sign of the coming of a new dark age when the rumor is believed to be more believable than fact and the reason is allowed to die horribly in

judgment to the cheers of the crowd? Who knows? What is clear is that universities must not be subdued by such circumstances and that conquest is only possible if universities continue to believe and hold fast to academic freedom which is the reason for their existence. That is the main message of the MCU. It is only through academic independence that the search for truth is possible. “I understand academic freedom as the right to find the truth and to publish and teach what is believed to be true. This right also implies an obligation: one must not hide any part of something that one has recognized as true,” said the great physicist who founded the Theory of Relativity, Albert Einstein. So, when universities neglect, let alone deny, the messages “sent” by the MCU above, which essentially emphasizes the importance of academic freedom, universities will soon lose their relevance in the discourse of civilization and humanity. ■



CIVIC KNOWLEDGE TEST FOR CORRUPTION ERADICATION COMMISSION EMPLOYEES IN CONSTITUTIONAL COURT'S PERSPECTIVE

The results of the Civic Knowledge Test (TWK) are used as the basis for consideration in the transfer of the status of the Corruption Eradication Commission (KPK) employee to the State Civil Apparatus (ASN). Many KPK employees, including investigators and investigators, were declared not to have passed the selection. The process of changing the status of KPK employees to ASN was also tested in the Constitutional Court. What is the perspective of the constitutional court?



Gedung KPK

The status transfer of KPK (Corruption Eradication Commission) employees, including investigators and investigators to State Civil Apparatus, should not hinder KPK employees who have experience and integrity in working and serving at the KPK. The existing personnel should be added, not reduced.

As for the dismissal of KPK (Corruption Eradication Commission)

employees, it should only be conducted because of a violation of the laws and ethics that have been set. The existing KPK employees should automatically become an integral part of the transfer of State Civil Apparatus status. It means that by law, employees will immediately become a State Civil Apparatus. There is no need for a test or selection. Ironically, all KPK employees, including investigators

and investigators, must take a test or selection to change their status to State Civil Apparatus, one of which is the Civic Knowledge Test.

The results of the Civic Knowledge Test have been used as the basis for consideration to determine whether other KPK (Corruption Eradication Commission) employees are appointed as State Civil Apparatus with the status of Civil Servants (PNS), Non-Permanent

Employees, or Government Employees with Work Agreements (PKWT). However, there is no single rule in the legislation.

The use of the Civic Knowledge Test results as a new basis and measure to determine the appointment of KPK (Corruption Eradication Commission) employees to become State Civil Apparatus occurs as a result of the phrase “can be appointed as an employee of the state civil apparatus as long as it fulfills the provisions of the legislation” in Article 69B paragraph (1) and the phrase “can be appointed as an employee of the state civil apparatus following the provisions of the legislation” in Article 69C of Law 19/2019. The existence of this phrase has been misinterpreted and exploited by adding a process equivalent to selection in the transition of employee status.

This is the petition Number 34/PUU-XIX/2021 in the case of the review of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission (KPK Law) against the Constitution of the Republic of Indonesia Year 1945 (UUD 1945).

The application was submitted by the Executive Director of KPK Watch Indonesia, Muh. Yusuf Sahide who provided legal counsel for Iwan Gunawan, et al from Advocates at the SGP Law Office. KPK Watch Indonesia is an NGO that was specifically formed to supervise the performance of the KPK. Thus, it is very concerned with the situation that is happening within the KPK.

Based on data at the Court’s Registrar’s Office, the petition for judicial review of the KPK Law was submitted to the Constitutional Court

Article 69B paragraph (1) of the KPK (Corruption Eradication Commission) Law states, “At the time, this Law comes into force, investigators or investigators from the Corruption Eradication Commission who have not had the status of an employee of the state civil apparatus within a maximum period of 2 (two) years after this Law comes into force. can be appointed as an employee of the state civil apparatus as long as it fulfills the provisions of the legislation.

Article 69C of the KPK (Corruption Eradication Commission) Law states, “At the time this law comes into force, employees of the Corruption Eradication Commission who have not had status as employees of the state civil apparatus within a maximum period of 2 (two) years from the time this law comes into force may be appointed as employees. state civil apparatus following the provisions of the legislation”.

on June 24, 2021. The request was recorded in the Constitutional Case Registration Book (BRPK) Number 34/PUU-XIX/2021 on July 16, 2021. Furthermore, the Petitioner submitted the revised petition to the Clerk of the Constitutional Court on August 6, 2021.

The materials requested for testing are Article 69B paragraph (1) and Article 69C of the KPK Law. According to the Petitioners, Article 69B paragraph (1) and Article 69C of the KPK Law contradict the provisions of Article 1 Paragraph (3), Article 27 Paragraph (2), Article 28D Paragraph (1), Paragraph (2), and Paragraph (3) of the Law. 1945 Constitution of the Republic of Indonesia (UUD 1945).

Civic Knowledge Test: Double-edged knife

The Petitioners argue that the provisions of Article 69B paragraph

(1) and Article 69C of the KPK Law contain uncertain content. Thus, they can be interpreted incorrectly. This is because the content of the two articles contains the phrase “can be appointed as an employee of the state civil apparatus as long as it fulfills the provisions of the legislation” for Article 69B paragraph (1) and the phrase “can be appointed as an employee of the state civil apparatus under the provisions of the legislation” for Article 69C of the KPK Law.

The meaning contained in the phrase “can be appointed as an employee of the state civil apparatus as long as it fulfills the provisions of the legislation” in Article 69B paragraph (1) of the KPK Law is uncertain because it depends on certain conditions, namely if it fulfills the conditions specified in the legislation. Likewise, the phrase “can be appointed as an employee of the state civil apparatus under



The Panel of Judges heard the principal petition submitted by the Petitioner online in a session with the agenda for a preliminary examination of the KPK Law which was held at the Constitutional Court on August 2, 2021.

the provisions of the legislation” in Article 69C of the KPK Law is also uncertain because it depends on an independent decision from the competent official under the provisions of the legislation.

The meaning of the phrase “laws and regulations” can be interpreted by all applicable regulations under the hierarchy of laws and regulations. It means that these conditions may be regulated in regulations under the law.

According to the Petitioner, the content material has been misinterpreted by the KPK (Corruption Eradication Commission) and the State Civil Service Agency (BKN) by using the results of the Civic Knowledge Test as the basis for determining whether or not a person is appointed as a State Civil Apparatus. Such content is of course contrary to the provisions of Article 1 Paragraph (3) of the 1945 Constitution which states, “The State

of Indonesia is the State of Law”, and Article 28D Paragraph (1) of the 1945 Constitution concerning the guarantee of fair legal certainty, because the content of Article which is uncertain and can be interpreted differently creates legal uncertainty so that it does not reflect the principles of the rule of law and guarantees of legal certainty.

The Petitioner also argued that the transfer of KPK employees, including KPK (Corruption Eradication Commission) investigators and investigators to become State Civil Apparatus within the framework of the rule of law, must be carried out subject to applicable legal provisions, not to accommodate certain interests. The philosophical level is what distinguishes the concept of a state based on the law (rule of law) and the concept that seems to use the law to justify actions that are not following the law (rule by law).

The open interpretation of the contents of Article 69B Paragraph (1) and Article 69C of the KPK Law to apply certain selection tests related to the transfer of State Civil Apparatus status has violated the concept of a state of law built for the welfare of the people. Therefore, the contents of the two articles do not embody the rule of law but rule by law, as evidenced by the use of the results of the Civic Knowledge Test as the basis for determining whether or not a person is appointed as State Civil Apparatus by the BKN (State Civil Service Agency) and the KPK. Civic Knowledge Test has absolutely no legal basis at the technical level. There is not a single rule in the legislation, both at the level of the KPK Law and PP 41/2020 which requires the existence of a Civic Knowledge Test.

“In fact, there is no single rule and regulation, both at the level of Law Number 19 of 2019 and Government Regulation Number 41 of 2020 concerning the Transfer of Employees of the Corruption Eradication Commission to become employees of the state civil apparatus (PP Number 41 of 2020) which requires Civic Knowledge Test,” said Muh. Yusuf Sahide in a trial with a preliminary examination agenda to be held at the Constitutional Court on August 2, 2021.

Ironically, the Corruption Eradication Commission Regulation (Perkom) Number 1 of 2021 concerning Procedures for the Transfer of Corruption Eradication Commission Employees to Employees of the State Civil Apparatus (Perkom 1/2021) is validated. Perkom 1/2021 seems to be a requirement that must be met in the transfer of

State Civil Apparatus status because Commission Regulation can be said to be part of the “statutory regulations” as stated in Article 69B Paragraph (1) and Article 69C of the KPK Law.

In the provisions of Article 5 paragraph (2) Perkom 1/2021, the transitional conditions to be able to become State Civil Apparatus are regulated, such as “be faithful and obedient to Pancasila, the 1945 Constitution of the Republic of Indonesia, the Unitary State of the Republic of Indonesia, and the legitimate government.” This requirement is then further regulated, where to fulfill the requirements in Article 5 letter b paragraph (2) Perkom 1/2021 a Civic Knowledge Test is carried out by the KPK (Corruption Eradication Commission) in collaboration with BKN (State Civil Service Agency). The rules for the TWK assessment requirements for the transfer of State Civil Apparatus status in Perkom 1/2021 were only made later after the issuance of the KPK Law. It occurred because the content of Article 69B paragraph (1) and Article 69C of the KPK Law was not certain, thus opening up opportunities for legislation under the Law to regulate certain requirements as a result of the phrase “as long as it complies with the provisions of the legislation” or “under the provisions of the legislation.”

Obviously, Perkom 1/2021 as a new regulation based on Article 69B paragraph (1) and Article 69C of the KPK Law does not reflect the principles of transparency and accountability. In fact, transparency and accountability that characterize good governance are prerequisites



The plenary session of the Constitutional Court Justices held a hearing to pronounce the verdict of the KPK Law on Tuesday (8/31/2021)

for the rule of law in the context of the rule of law. The existence of a Civic Knowledge Test requirement certainly creates uncertainty for KPK employees because loyalty to Pancasila and the 1945 Constitution should suffice with a stamped statement considering that Civic Knowledge Test can be a double-edged knife that can be used subjectively to dismiss KPK employees.

In addition, according to the Petitioner, the consequences of using the Civic Knowledge Test results have also been applied at this time with the KPK Leadership Decree signed on 7 May 2021, where KPK employees who do not pass the Civic Knowledge Test are asked to submit their duties and responsibilities to the leadership so that it make KPK employees prohibited from carrying out work (non-jobs).

The actions of the KPK leadership against employees who do not pass the Civic Knowledge Test are

not justified. The action is classified as against the law because it is not based on statutory regulations. This action also contradicts Article 24 of Perkom 1/2021 which states, “a. all authorities and responsibilities of the Corruption Eradication Commission Employees who have been appointed before the enactment of this Commission Regulation remain valid and continue to carry out their duties and authorities under the provisions of the legislation; and b. If the functional positions that carry out certain tasks within the Corruption Eradication Commission have not been established, the Corruption Eradication Commission employees who are transferred to the positions referred to are still able to carry out their duties.”

This unlawful act is further excess than the uncertainty of the content of Article 69B paragraph (1) and Article 69C of the KPK Law.

As a result, Indonesia is further away from the ideals of eradicating corruption.

Employment Rights and Decent Pay

The provisions of Article 27 paragraph (2) of the 1945 Constitution guarantee that every citizen has the right to decent work and a decent living. Furthermore, Article 28D paragraph (2) of the 1945 Constitution guarantees that everyone has the right to receive fair and proper remuneration and treatment in an employment relationship. However, according to the Petitioner, the protection and guarantee of these human rights do not occur with the enactment of the provisions of Article 69B paragraph (1) and Article 69C of the KPK Law.

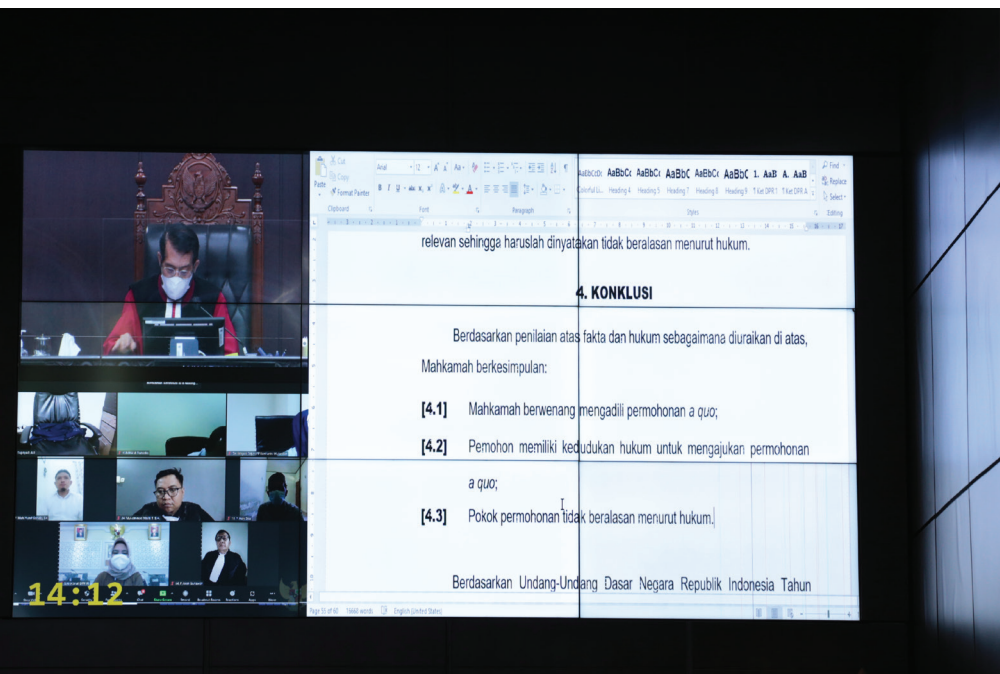
Rewards in the international context are known as “remuneration”. It refers to the Equal Remuneration Convention 1951 that has been

ratified by Indonesia. Fair and proper treatment in working relations then covers a broad aspect. Fair means that there is no discrimination in the employment relationship between the rights of one worker and another when referring to the same reference, namely Discrimination covering ethnicity, race, religion, political views, regional origin, and gender. For a proper size relationship, it can be interpreted according to the convention, including starting from job access to work requirements.

In the matter of transitioning status from KPK employees to State Civil Apparatus as contained in Article 69B paragraph (1) and Article 69C of the KPK Law, all transition processes that occur must maintain the basic principles in the constitution, namely the right to work and the existence of a fair and proper reward and treatment relationship. in a working relationship.

Using the results of the Civic Knowledge Test as the basis for determining whether a person is appointed or not appointed as a State Civil Apparatus is an act that causes constitutional guarantees to not be fulfilled, both the right to work and the right to fair and proper compensation and treatment. The Petitioners reasoned that the process of transitioning to State Civil Apparatus cannot be equated with the acceptance of new State Civil Apparatus employees and the process of promotion in the State Civil Apparatus system. The Petitioner refers to Law Number 5 of 2014 concerning State Civil Apparatus (UU No. 5/2014) whose implementation rules are outlined in Government Regulation Number 11 of 2017 concerning Management of Civil Servants (PP No. 11/2017). UU no. 5/2014 regulates the procurement of civil servants through selection, even in Article 23 PP No. 11/2017 states that citizens who may apply to become civil servants must be at least 18 years old and a maximum of 35 years old.

Thus, if the provisions of the ASN (State Civil Apparatus) Law are used for the transition process from KPK employees to State Civil Apparatus employees after the implementation of the KPK Law, many KPK employees currently do not meet the requirements because they are over 35 years of age. Thus, if it is postulated that this transition process is based on that logic, then discrimination has occurred considering that it is only a requirement of civil servant selection. In addition, if it is based on promotion, promotion using Civic Knowledge Test does not result in a person losing his job. Therefore, it has become clear that the Civic Knowledge Test process with the



Chairman of the Plenary Session of Constitutional Justices Anwar Usman read out the verdict on the KPK Law Examination on Tuesday (8/31/2021)

impact of losing one's job has never been used in the State Civil Apparatus system in Indonesia.

Equal Opportunity in Government

The Petitioner further argues that the content of Article 69B paragraph (1) and Article 69C of the KPK Law has caused or at least has the potential to cause a violation of Article 28D Paragraph (3) of the 1945 Constitution, which states, "Every citizen has the right to have equal opportunities in government".

The transition of the status of KPK employees (including investigators and investigators) to State Civil Apparatus that does not automatically by law opens the opportunity for the issuance of Perkom 1/2021 that regulates separate requirements that can hinder the constitutional rights of KPK employees to obtain equal opportunities in government. The application of the requirements to pass the Civic Knowledge Test for the transfer of State Civil Apparatus status as a result of the uncertainty of the content of the two articles in Law 19/2021 will eliminate the constitutional rights of KPK employees if the KPK employees who do not pass the TWK are dismissed. The opportunity to serve in the KPK (Corruption Eradication Commission) is lost. Whereas working at the KPK is a form of opportunity to participate in government, which is a right protected by the constitution.

Becoming a KPK employee is not an easy process because it goes through a rigorous selection process. KPK employees have gone through the selection process before becoming KPK employees.

Petitum

The Petitioner in the petitum asked the Court to state that Article

69B paragraph (1) of the KPK Law is contrary to the 1945 Constitution and has no binding legal force as long as it is not interpreted as follows: state civil servants within a maximum period of 2 (two) years after this Law comes into force are appointed as employees of the state civil apparatus as long as they fulfill the provisions 1. Willing to become employees of the State Civil Apparatus (ASN), and 2. Have not entered the retirement age limit according to the provisions of the law. -invitation".

The Petitioners also asked the Court to declare Article 69C of the KPK Law contrary to the 1945 Constitution and not having binding legal force as long as it is not interpreted: "At the time this law comes into force, the Corruption Eradication Commission employee who has not had the status of an employee of the state civil apparatus for a maximum time. 2 (two) years since this Law comes into force, he is appointed as an employee of the state civil apparatus as long as he fulfills the provisions of 1. Willing to become an employee of the State Civil Apparatus (ASN), and 2. It has not been entering the retirement age limit according to the provisions of the legislation".

No harm to employees

The Court in its legal considerations refers to the previous decision, namely the Constitutional Court Decision Number 70/PUU-XVII/2019, on May 4, 2021. In this decision, the Court has considered and decided on the constitutionality of the norms of Article 24 of the KPK Law which has the same constitutional issues as what was requested by the Petitioner in a quo case. One of the Court's legal considerations in Decision Number

70/PUU-XVII/2019 states that the substance of Article 24 of the KPK Law does not contain an aspect of limiting equal opportunities to become State Civil Apparatus for KPK employees. Moreover, in the process of transitioning KPK employees to State Civil Apparatus employees, it must still be based on the Transitional Provisions of the KPK Law, the contents of which relate to adjustments to existing legal action arrangements or legal relations based on the old Law against the new Law, where the purpose of the Transitional Provisions is to: to avoid a legal vacuum, guarantee legal certainty, provide legal protection for parties affected by changes in the provisions of the law, regulate transitional or temporary matters.

"It must not harm the rights of KPK employees to be appointed as ASN for any reason other than the predetermined design. Because all this time, KPK employees have served at the KPK and their dedication in eradicating corruption is not in doubt."

Furthermore, the consideration of Decision Number 70/PUU-XVII/2019 states that the provisions regarding ASN employees do not only apply to employees at the KPK but have also long been applied to employees of state institutions that also carry out law enforcement functions, such as the Supreme Court and Constitutional Constitution. Employees in the two state institutions are State Civil Apparatus employees and do not affect the independence of the two institutions in carrying out their functions as law enforcement agencies.

In the decision, the Court also emphasized the age limit for KPK employees who have reached the age of 35 years. In the Corruption Eradication Commission/KPK Law, it is determined that the time for the adjustment of the transition to the KPK's employment status is no later than 2 (two) years after the Law comes into force. In connection with the adjustment mechanism, Government Regulation Number 41 of 2020 has been issued concerning the Transfer of Employees of the Corruption Eradication Commission to become State Civil Apparatus Employees (PP 41/2020).

Thus, even if the KPK employees are 35 years of age or older, it does not mean that they will lose the opportunity to make adjustments to whether they become civil servants or Government employees with work agreement. To further regulate the working mechanism of the transfer so that it can be realized more quickly following factual conditions, PP 41/2020 submits the arrangements in the KPK Regulation. In this KPK Regulation, it has been determined the calculation of the period of service in the rank level before

KPK employees become State Civil Apparatus.

The Court emphasized that the transfer of the status of KPK employees to State Civil Apparatus must not harm the rights of KPK employees to be appointed as State Civil Apparatus for any reason outside the predetermined design. Because all this time, KPK employees have served at the KPK and their dedication to eradicating corruption is not in doubt.

The Court reiterated the meaning of "... it must not harm the rights of KPK employees to be appointed as State Civil Apparatus for any reason other than the predetermined design". The meaning of "no harm" in the context of individual KPK employees means that in implementing the transfer of status from KPK employees to employees with ASN status, all KPK employees have equal opportunities under the provisions of laws and regulations and must continue to prioritize the human resources of KPK employees. who are not only professional but also have integrity, are neutral and free from political intervention, and are free from abuse of authority in carrying out their duties and functions as KPK employees.

The meaning of "no harm" in the institutional context means that it must not be detrimental to the KPK institution itself, which in this case is related to law enforcement techniques in carrying out its duties and functions as a state institution that focuses on preventing and eradicating Corruption Crimes. Furthermore, the meaning of "no harm" in the context of being a State Civil Apparatus means to become a loyal State Apparatus and submit to state politics that is obedient to carry out all products of laws and

regulations that are valid in the Unitary State of the Republic of Indonesia. Meanwhile, the meaning of "no harm" in the context of the state is in the sense of being detrimental to the interests of the nation and state. Thus, State Civil Apparatus is expected to become a unifying tool for the nation and state based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

The Specialty of KPK Employees

According to the Court, the Petitioners had misinterpreted the concept of the rule of law only in terms of the practical design of the implementation of the transition of KPK employees to State Civil Apparatus. The Court also paid close attention to the specifics for KPK employees in the design of the transfer of KPK employees to State Civil Apparatus as regulated in PP 41/2020. According to the Court, this is a form of specificity that aims to strengthen the independence of the KPK (Corruption Eradication Commission) without denying the existence of other rules related to State Civil Apparatus, namely Law 5/2014 which binds all ASN corps.

According to the Court, this should also be the focus of the Petitioner's attention. The existing design is indeed based on the provisions of the legislation which is a form of embodiment of the rule of law as regulated in Article 1 Paragraph (3) of the 1945 Constitution and as a form of guarantee, protection, and legal certainty. as regulated in Article 28D Paragraph (1) of the 1945 Constitution. The main thing that must also be understood by the Petitioner is that the fair recognition, guarantee, protection, and legal certainty as guaranteed in Article 28D Paragraph (1) of

the 1945 Constitution cannot be separated or must be interpreted as a unit with the norms guaranteed in Article 28J Paragraph (2) of the 1945 Constitution. In exercising their rights and freedoms, everyone is obliged to comply with the restrictions stipulated by law with the sole purpose of guaranteeing recognition and respect for the rights and freedoms of others. The essence of human rights is freedom, but freedom does not mean unlimited freedom, but that freedom must stop when it begins to enter the territory of the freedom of others, as the fulfillment of just demands following considerations of morals, religious values, security, and public order in a democratic society.

Civic Knowledge Test for all KPK Employees

Considering the Petitioner's argument regarding the application of Civic Knowledge Test, the Petitioner's argument can only be considered acceptable if within the framework of the due process of law there is

"The provisions are written in Article 69B paragraph (1) and Article 69C of the KPK Law do not only apply to the Petitioners in casu of KPK employees who do not pass the Civic Knowledge Test but also to all KPK employees"

a norm that causes the Petitioner not to obtain fair legal certainty and is treated differently from other Indonesian citizens with the same status as the Petitioner *in casu* that some KPK employees who do not pass Civic Knowledge Test. According to the Court, Article 28D Paragraph (1) of the 1945 Constitution is not intended to guarantee that a person who has held any position cannot be dismissed on the grounds of guaranteeing and protecting legal certainty. Legal certainty in question is fair legal certainty and equal treatment in the sense that every employee who experiences a status transfer has the same opportunity to become an State Civil Apparatus with the requirements determined by the legislation.

"The provisions contained in Article 69B paragraph (1) and Article 69C of the KPK Law do not only apply to the Petitioners *in casu* of KPK employees who do not pass the Civic Knowledge Test but also to all KPK employees," said Constitutional Justice Daniel Yusmic P. Decision Number 34/PUU-XIX/2021 in an online hearing at the Constitutional Court, on Tuesday, August 31, 2021.

Therefore, according to the Court, a quo provision does not contain discriminatory provisions. The fact that several KPK employees do not pass the Civic Knowledge Test is not a matter of the constitutionality of norms. Thus, the Petitioners' argument which states that Article 69B paragraph (1) and Article 69C of the KPK Law contradicts Article 1 paragraph (3) and Article 28D paragraph (1) of the 1945 Constitution is groundless according to law.

In addition, concerning the Petitioners' argument stating that Civic Knowledge Test mechanism has also violated Article 28D Paragraph (2)

of the 1945 Constitution, according to the Court, the Petitioner's analogy is incorrect. Because the right to work is directly related to the right to earn a living, very close to the right to maintain life and the right to live in physical and spiritual prosperity. These rights are not only owned by a group of people.

According to the Court, the existence of specific requirements in a job does not conflict with Article 28D Paragraph (2) as long as it is carried out based on reasons and through fair, rational and legal procedures. What is prohibited by Article 28D Paragraph (2) of the 1945 Constitution is if the provisions of the Act have eliminated a person's right to work.

"Based on the description of the legal considerations above, the Petitioner's argument which states Article 69B paragraph (1) and Article 69C of Law 19/2019 is contrary to Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution is groundless according to law," he said. Deputy Chief Justice of the Constitutional Court Aswanto read out the legal considerations of Decision Number 34/PUU-XIX/2021.

Nondiscriminatory

The Court believes that the fulfillment of the right to equal opportunities in government does not negate the state's authority to regulate and determine the conditions. Especially if the same opportunity in government involves filling public positions that require the trust of the public. As the Court has considered in Decision Number 70/PUU-XVII/2019, that substantially the design for the transfer of KPK employees to State Civil Apparatus has been determined according to the provisions of the legislation in casu Law 5/2014 and

its implementing regulations and one of the general measures that have been accepted as an objective measure. To fulfill the requirements for filling the position, national insight is also a requirement during the selection of ASN and during career development of civil servants as regulated in Law 5/2014 and its implementing regulations.

“Therefore, according to the Court, such a requirement is inappropriate if it is considered as a provision that hinders the right of a citizen to obtain equal opportunities in government and also can’t be viewed as a provision containing discriminatory treatment. Based on the description of the legal considerations above, the Petitioners’ argument that stated Article 69B paragraph (1) and Article 69C of Law 19/2019 contradicts Article 28D paragraph (3) of the 1945 Constitution is groundless according to law,” continued Aswanto.

Maintaining The Dignity of State Civil Apparatus

According to the Court, the current State Civil Apparatus management regulations have put forward the State Civil Apparatus management to produce State Civil Apparatus employees who are not only professional, but also have basic values, have professional ethics, are free from political intervention, and are free from corrupt practices, collusion, and nepotism. Transparent and accountable State Civil Apparatus recruitment processes and mechanisms are also an integral part of the effort to create quality State Civil Apparatus human resources.

In addition, the education and training process for State Civil

Summary of Decision Number 34/PUU-XIX/2021

The decision in the case of Judicial Review of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission against the 1945 Constitution of the Republic of Indonesia.

Petitioner

Moh. Yusuf Sahide, S.H. (Executive Director of KPK Watch Indonesia)

Verdict

Reject the Petitioner’s application in its entirety

Verdict Pronouncement

August 31, 2021

Apparatus has also been carried out in an integrated manner. The aim is to build moral integrity, honesty, spirit, and motivation of nationalism and nationality, build a superior and responsible personality character, and strengthen professionalism and competence in the field.

“Of course, applies to all ASN employees without exception as an effort to maintain the dignity of State Civil Apparatus so that State Civil Apparatus is not only professional but can be an example and role model in the community so that when carrying out their duties they will uphold office ethics, work as well as possible and full sense of responsibility,” continued Aswanto.

According to the Court, efforts to realize State Civil Apparatus that are professional, have integrity, and have morality, are not only the responsibility of the Government and related stakeholders but are also the responsibility of all levels of society

by continuing to prioritize principles, principles, basic values, as well as codes of ethics and codes of conduct as regulated by the Court. in Law 5/2014.

“The Court believes that the Petitioners’ arguments regarding the unconstitutional norms of Article 69B paragraph (1) and Article 69C of Law 19/2019 are groundless according to law,” concluded Aswanto reading the Court’s legal considerations.

As a result, in its ruling, the Court stated that it rejected the application for judicial review of the KPK Law submitted by the Executive Director of KPK Watch Indonesia, Muh. Yusuf Sahid. “Reject the Petitioner’s application in its entirety,” said Chief Justice of the Constitutional Court Anwar Usman reading out the verdict No. 34/PUU-XIX/2021 in a trial held online at the Constitutional Court, on Tuesday, August 31, 2021. ■

NUR ROSIHIN ANA

STATUS TRANSITION, NOT NEW STATE CIVIL APPARATUS RECRUITMENT



The trial with the agenda for a preliminary examination of the KPK Law was held at the Constitutional Court on August 2, 2021.

The case for reviewing the material for the KPK Law was decided by the Court on Tuesday (8/31/2021). The application was submitted by the Executive Director of KPK Watch Indonesia, Muh. Yusuf Sahid. The Court in its decision Number 34/PUU-XIX/2021 stated that the Petitioner's petition in its entirety was rejected.

However, four constitutional judges have a concurring opinion in the decision. The four constitutional judges in question are Constitutional

Justice Wahiduddin Adams, Constitutional Justice Suhartoyo, Constitutional Justice Saldi Isra, and Constitutional Justice Enny Nurbaningsih.

Concurring Opinion read by Constitutional Justice Saldi Isra said, based on the legal considerations of the Constitutional Court Decision Number 70/PUU-XVII/2019, "transitional status" for KPK investigators or investigators and KPK employees is not a process of recruiting new employee candidates or new State Civil Apparatus that

require them to be Various forms of selection were carried out. Thus, some of them could be declared "eligible" and some could be declared "not eligible". However, the provisions of Article 69B and Article 69C of the KPK Law must be viewed, interpreted, and positioned as a status transition for KPK investigators, investigators, and employees to become ASN employees so that the new design of the KPK institution continues to provide legal certainty for KPK investigators, investigators, and employees.

The further consideration refers to the transitional provisions in Article 69B and Article 69C of the KPK Law and correctly interprets the goals and purposes of the norms in “Transitional Provisions” in the statutory system.

“The change/transfer in status must be seen as a status transition, not a selection of new employee candidates,” said Constitutional Justice Saldi Isra reading the Concurring Opinion in Decision Number 34/PUU-XIX/2021, on Tuesday, August 31, 2021.

By law, if it is placed in the construction of Article 69B and Article 69C of the KPK Law, the transition process must be carried out first. After that, investigators and KPK employees have obtained

the status of State Civil Apparatus employees, the KPK institutions can carry out various forms of tests to place them in the KPK Corruption Eradication Commission organizational structure following the KPK’s new design.

“For legal position, because the status transfer is a right, the transfer is carried out first and after the rights are fulfilled. It can only be followed by solving other problems, including the possibility of promotion and demotion as State Civil Apparatus employees at the KPK,” added Saldi.

Based on legal certainty, the norms in Article 69B and Article 69C of the KPK Law should highly be interpreted as the fulfillment of the constitutional rights of citizens,

in casu the constitutional rights of investigators, investigators, and KPK employees to be transferred to their status as State Civil Apparatus employees following Article 27 Paragraph (2), Article 28C Paragraph (2), Article 28D Paragraph (1), and Article 28D Paragraph (3) of the 1945 Constitution.

“In this context, even though a quo petition is rejected, the legal considerations can be used as a momentum to confirm the Court’s stance regarding the transition of the status of investigators, investigators and KPK employees legally to State Civil Apparatus employees as a right that must be fulfilled as the spirit of Constitutional Court Decision Number 70/PUU-XVII 2019,” said Saldi. ■

NUR ROSIHIN ANA



Constitutional Justice Saldi Isra readout Concurring Opinion in the trial held at the Constitutional Court on Tuesday (8/31/2021)

CONSTITUTIONAL COURT'S VERDICT IN SEPTEMBER 2021

No	Case Number	Subject Matter of the Case	Appellant	Verdict
1	61/PUU-XVIII/2020	Material Examination of Law Number 19 of 2003 concerning State-Owned Enterprises against the 1945 Constitution	United Pertamina Workers Union Federation (FSPPB), represented by Arie Gumilar as President of FSPPB	Completely Rejected
2	102/PUU-XVIII/2020	Material Examination of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking against the 1945 Constitution	PT Bank Perkreditan Rakyat Lestari Bali, represented by Pribadi Budiono as President Director	<ol style="list-style-type: none"> 1. Granting the appellant's application; 2. Stating the phrase "Commercial Bank" in Article 12A paragraph (1) of Law Number 10 of 1998 concerning Amendments to Act Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia of 1998 Number 182, Supplement to the State Gazette of the Republic of Indonesia Number 3790) contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force as long as it is not interpreted as "Commercial Banks and Rural Banks". Thus, Article 12A paragraph (1) of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia of 1998 Number 182, Supplement to the State Gazette of the Republic of Indonesia Number 3790) which originally read, " Commercial Banks may purchase part or all of the collateral, either through auction or outside the auction based on voluntary submission by the owner of the collateral or based on the power to sell outside the auction from the owner of the collateral in the event that the Debtor Customer does not fulfill his obligations to the bank, provided that the purchased collateral is must be disbursed as soon as possible", which reads in full "Commercial Banks and Rural Banks may purchase part or all of the collateral, either through auction or outside the auction based on voluntary submission by the owner of the collateral or based on the power to sell outside the auction from the owner of the collateral in the event that the Customer The debtor does not fulfill his obligations to at the bank, provided that the purchased collateral must be disbursed as soon as possible"; 3. Ordered the loading of this decision in the State Gazette of the Republic of Indonesia as appropriate.

3	PUU-XIX/2021/17	Material Testing of Law Number 11 of 2008 as amended by Law Number 19 of 2016 concerning Information and Electronic Transactions against the 1945 Constitution	1. Rosiana Simon; 2. Kok An	Completely Rejected
4	PUU-XIX/2021/26	Material Examination of Law Number 15 of 2006 concerning the Supreme Audit Board of the 1945 Constitution	Muhammad Helmi Kamal	Completely Rejected
5	PUU-XIX/2021/29	Material Examination of Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption against the 1945 Constitution	Patrice Rio Capella	Completely Rejected
6	PUU-XIX/2021/33	Material Testing of Law Number 21 of 2011 concerning the Financial Services Authority against the 1945 Constitution	Nurhasanah dan Khoerul Huda	Completely Rejected
7	PUU-XIX/2021/44	Material Testing of Law No. 7 of 2017 concerning General Elections against the 1945 Constitution	Martondi, Naloanda, M. Gontar Lubis, Muhamma Yasid	Unacceptable

8	PUU-XVII/2019/72	Application for Judicial Review of Law Number 24 of 2011 concerning the Social Security Administration against the 1945 Constitution of the Republic of Indonesia	.Prof. Dr. H .,Mohammad Saleh .S.H., M.H., Prof. Dr. Ir H. Mohammad Noor .,Salim, S.E., M.M .,Dr. Iman Bastari .,Ak., M.Acc., CA QIA., Drs. Achyar .Hanafi, M.S., Dr. Drs Raden Sulakmono .,Kamso, SH., MBA M.M., Dr. Ir. Iskandar .,Andi Nuhung M.Sc., Drs. Miduk .,Purba, M.A., Ph.D Dr. Dwi Satriany .,Unwidjaja, M.Si .,Dra. Iis Ukhiyawati .,Esti Yogyakarta .,Ruhendo Saputra .,Rosdiana, S.T., M.T .Nurhasanah, Drs .,Djalu Sugiarto, M.Si dan Drs. Sutanto Herujatmiko	<ol style="list-style-type: none"> 1. Granted the petition of the Petitioners in its entirety. 2. To state that Article 57 letter f and Article 65 paragraph (2) of Law Number 24 of 2011 concerning the Social Security Administering Body (State Gazette of the Republic of Indonesia of 2011 Number 116, Supplement to the State Gazette of the Republic of Indonesia Number 5256) is contrary to the Constitution of the Republic of Indonesia Indonesia in 1945 and has no binding legal force; 3. Order the loading of this decision in the State Gazette of the Republic of Indonesia as appropriate.
9	PUU-XVIII/2020/6	Material Testing of Law Number 24 of 2011 concerning the Social Security Administering Body against the 1945 Constitution	(Mayjen TNI (Purn) .1 .Endang Hairudin; 2 Laksma TNI (Purn) M. .,Dwi Purnomo, S.H M.M; 3. Marsma TNI .,Purn) Adis Banjere) S.H., M.H; 4. Kolonel CHB (Purn) Ir. Adieli Hulu, M.M	<ol style="list-style-type: none"> 1. Granted the petition of the Petitioners in its entirety. 2. To state that Article 57 letter e and Article 65 paragraph (1) of Law Number 24 of 2011 concerning the Social Security Administering Body (State Gazette of the Republic of Indonesia of 2011 Number 116, Supplement to the State Gazette of the Republic of Indonesia Number 5256) is contrary to the Constitution of the Republic of Indonesia Indonesia in 1945 and has no binding legal force; 3. Ordering the loading of this decision in the State Gazette of the Republic of Indonesia as appropriate.
10	PUU-XIX/2021/31	Material Testing of the Criminal Code (KUHP) and Law Number 39 of 1999 concerning Human Rights against the 1945 Constitution	Lee Yang Hun	Completely Rejected
11	PUU-XIX/2021/41	Material Testing of Law Number 12 of 1995 concerning Corrections	Otto Cornelis Kaligis	Completely Rejected

12	PUU-XIX/2021/42	Material Testing of Law Number 6 of 2014 concerning Villages	Nedi Suwiran	<ol style="list-style-type: none"> 1. Granted the Petitioner's request in part. 2. To declare that the Elucidation of Article 39 of the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages (State Gazette of the Republic of Indonesia of 2014 Number 7, Supplement to the State Gazette of the Republic of Indonesia Number 5495) is contrary to the 1945 Constitution of the Republic of Indonesia and 25 Number 175 September 2021 does not have conditionally binding legal force as long as it is not interpreted, "Village heads who have served 1 (one) term, both based on the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages and based on previous laws are still allowed to serve 2 (two) terms. . Likewise, for village heads who have served 2 (two) terms, both based on the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages and based on the previous law, they are still allowed to serve 1 (one) period. So that the Elucidation of Article 39 of the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages (State Gazette of the Republic of Indonesia of 2014 Number 7, Supplement to the State Gazette of the Republic of Indonesia Number 5495) which originally read "Village Head who has served one term of office based on the Law Number 32 of 2004 is allowed to re-nominate for a maximum of 2 (two) terms of office. Meanwhile, Village Heads who have served 2 (two) terms of office based on Law No. 32 of 2004 are allowed to re-nominate for only 1 (one) term of office. period, both based on the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages and based on the previous law, they are still allowed to serve 2 (two) terms. Likewise, for village heads who have served 2 (two) terms, both based on the Law of the Republic of Indonesia Number 6 of 2014 concerning Villages and based on the previous law, they are still given the opportunity to serve 1 (one) term. 3. Ordering the loading of this decision in the State Gazette of the Republic of Indonesia as appropriate. 4. Rejecting the Petitioner's application outside the case.
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13	PUU-XIX/2021/43	Material Testing of Law Number 3 of 2009 concerning the Second Amendment to Law Number 14 of 1985 concerning the Supreme Court	Vikash Kumar Dugar	Rejected the appellant's application on the whole
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VERDICT OF PETITION FOR DISPUTE ON THE RESULTS OF THE ELECTION OF REGIONAL HEAD IN SEPTEMBER 2021

No	Case Number	Subject Matter of the Case	Appellant	Verdict
1	149/PHP.BUP-XIX/2021	Dispute Over the Results of 2020 Nabire Regent Election	Fransiscus Xaverius Mote and Tabroni Bin M. Cahya	Unacceptable
2	146/PHP.GUB-XIX/2021	Dispute Over the Results of 2020 Nabire Regent Election	Yufinia Mote and Muhammad Darwis	Unacceptable

CCJ-OIC FORUM IS INAUGURATED THROUGH BANDUNG DECLARATION

On September 17, 2021, the Conference of Constitutional Jurisdictions of OIC Member States (CCJ-OIC) was inaugurated. The forum initiated by five countries, namely Indonesia, Turkey, Algeria, Pakistan, and Gambia as the working committee, succeeded in establishing a constitutional jurisdiction for member countries of the Organization of Islamic Cooperation (OIC).



The inauguration of the CCJ-OIC was carried out at the closing ceremony of the 2nd Conference of the Judicial Conference of Constitutional and Supreme Courts/Councils of the OIC Member States/Observer States (J-OIC) in Bandung, West Java. Chief Justice of the Supreme Court of Pakistan, Gulzar Ahmed, was asked to read the Bandung Declaration. The Bandung Declaration contained the ratification of the CCJ-OIJ which was read before



several chairmen and representatives of the 38 Constitutional Courts and the Supreme Court/Council and Equivalent Institutions of Member States/OIC Monitoring, guest courts, and international institutions online.

The beginning of the involvement of the Constitutional Court of the Republic of Indonesia (MKRI) as a working committee occurred at the first J-OIC Conference that took place on 14-15 December 2018 in Turkey. In the conference with the theme “The Role of Higher Judiciary in Protecting the Rule of Law and Fundamental Rights”, the Istanbul Declaration was generated, one of which agreed to Indonesia as the host for the next conference. The Istanbul Declaration also agreed to establish a working committee to discuss the form and future steps of the J-OIC forum.

Therefore, Indonesia represented by the Constitutional Court, hosted the 2nd J-OIC Conference meeting which took place on 15-17 September 2021. At the conference delivered the theme “Human Rights and Constitutionalism: The Contribution of Judiciary in Moslem Countries,” 38 countries online and offline.

Working Committee

On September 16, 2021, Indonesia together with four other countries that are members of the working committee held a meeting to discuss the contents of the Bandung Declaration. The main discussion is related to the naming of the forum, the place and time of holding the next conference, the expansion of tasks, and the addition of the number of working committee countries, as well as the determination of members.

In a meeting, the day before the Bandung Declaration, the Turkish Constitutional Court and the Algerian Constitutional Council proposed

the “Conference of Constitutional Jurisdiction of OIC Member States”, abbreviated as CCJOIC, as the name of a forum that combines the constitutional court and similar institutions/institutions among OIC countries.

Furthermore, the Turkish Constitutional Court also proposed holding the first congress at the CCJOIC meeting and stated that it was ready to hold the congress against the background of the Istanbul Declaration as a witness to the birth of J-OIC. In addition, at the congress, the Turkish Constitutional Court stated that it was willing to make and present the draft CCJ-OIC statute.

In another discussion, regarding the position of the permanent secretariat of the CCJ-OIC, all delegates agreed that it would be determined after the first congress and the stipulation of the statutes. However, the Algerian Constitutional Council proposes that the secretariat will remain outside Asia. Thus, there is a sense of justice in terms of geographical location, considering that the OIC secretariat is located on the Asian continent.

Bandung Declaration

On September 17, 2021, the Conference of Constitutional Jurisdictions of OIC Member States (CCJ-OIC) was officially legalized in Bandung, West Java, online. CCJ-OIC was inaugurated based on the Bandung Declaration read by the Chief Justice of the Supreme Court of Pakistan Gulzar Ahmed at the closing ceremony of the 2nd Conference (J-OIC). The inauguration of the forum was attended by some chairmen and representatives from 38 Constitutional Courts and Supreme Courts/Councils and Equivalent Institutions of Member



Chief Justice of the Supreme Court of Pakistan, Gulzar Ahmed, read the Bandung Declaration which inaugurated the CCJ-OIC Forum.

States/OIC Monitoring, guest courts, and international institutions.

The Bandung Declaration agreed to (1) establish a formal forum for constitutional courts in OIC Member States, as an independent forum for exchanging experiences and information on common concerns related to the handling of constitutional and jurisprudential cases for the promotion of the rule of law, democracy, and human rights. ; (2) inaugurate an association forum with the name Conference of Constitutional Jurisdictions of OIC Member States (CCJ-OIC); (3) convene the First Congress of the CCJ-OIC in 2022 to be held in

Istanbul, Turkey; (4) continue the mandate of the Working Committee consisting of Indonesia, Turkey, Algeria, Pakistan, and Gambia to prepare conference working papers to be submitted to the congress, including the CCJOIC Statute and consideration of the CCJ-OIC relationship and its interaction with the Organization of Islamic Cooperation.

Speech by President Jokowi

President Jokowi hopes that the OIC member countries and review countries as members of the CCJ-OIC can work together in solving global problems.

President Joko Widodo expressed his hopes regarding the implementation of the 2nd J-OIC Conference.

“I invite member countries and the OIC to review to maintain *ukhuwah* Islamiyah, maintain brotherhood and collaboration among Muslims. It is also to strengthen the Basyariah brotherhood, to build solidarity and cooperation between various citizens of the world regardless of national background, religion or race. Thus, Islam is truly believed to be a religion that is *rahmatan lil ‘alamin*,” said President Jokowi. ■

(LULU ANJARSARI P)



**THE 2ND CONFERENCE OF THE CONSTITUTIONAL AND SUPREME
COURTS/COUNCILS AND EQUIVALENT INSTITUTIONS OF THE MEMBER
STATES OF THE ORGANIZATION OF ISLAMIC COOPERATION**

BANDUNG DECLARATION

ON HUMAN RIGHTS AND CONSTITUTIONALISM

On 15-17 September 2021, the Constitutional Court of the Republic of Indonesia hosted in Bandung the Second Conference of the Constitutional and Supreme Courts/Councils and Equivalent Institutions of the Member States of the Organization of Islamic Cooperation (OIC), with the theme of “Human Rights and Constitutionalism: The Contribution of Judiciary of Muslim Countries”.

The Heads and Representatives from 38 Constitutional and Supreme Courts/Councils and Equivalent Institutions of the OIC Member/Observer States, guest courts, and international institutions participated in the conference. The conference presented an opportunity to engage and share knowledge, experiences, and best practices relating to constitutional cases for the promotion of human rights, constitutionalism, and democracy, notably the Role of Judiciary to Promote Humanity and Democracy; and the Protection of Social, Economic and Cultural Rights; as well as Civil and Political Rights in a Pluralistic Society.

Within the framework of their constitutional competence, the constitutional and supreme courts/councils play an instrumental role to ensure respect for the implementation of national constitutions principles of rule of law, democracy, and human rights.

As guardians of the constitution, rule of law, democracy, and human rights, we, Heads and Representatives of the Constitutional and Supreme Courts/Councils and Equivalent Institutions of the Member States of OIC declare our commitment to ensure rule of law and work against the widespread xenophobic and Islamophobic discourse and practice, as well as terrorism, which undermine the principles of rule of law, promotion of a dignified life for all humanity and peaceful coexistence between religions and beliefs.

Reaffirming the commitment to build partnerships through sharing of information and best practices on constitutional cases for the promotion of rule of law, democracy, and human rights, we hereby agree:

1. To establish a formal platform for the constitutional judiciaries in OIC Member States, as an independent forum to exchange experiences and information on mutual concern relating to dealing with constitutional cases and jurisprudence for the promotion of rule of law, democracy, and human rights;
2. To officially launch the platform under the name of “Conference of Constitutional Jurisdictions of OIC Member States (CCJ-OIC)”;
3. To convene the inaugural congress of the CCJ-OIC next year to be held in Istanbul, Turkey;
4. To continue the mandate of the Working Committee consisting of Indonesia, Turkey, Algeria, Pakistan, and Gambia to prepare the working papers of the conference to be submitted to the congress, including but not limited to:
 - The statute of the CCJ-OIC;
 - The consideration of the relationship of the CCJ-OIC and its interaction with the Organization of Islamic Cooperation.

The Heads and representatives of delegations present today hereby express their highest appreciation to the Constitutional Court of the Republic of Indonesia for organizing this conference in an outstanding manner and with excellent hospitality.

Bandung, 17 September 2021

THE 2ND J-OIC CONFERENCE DISCUSSING THE ROLE OF THE JUDICIARY IN SEVERAL ISLAMIC COUNTRIES

The 2nd Conference of the Judicial Conference of Constitutional and Supreme Courts/ Councils of the OIC Member States/ Observer States (J- OIC)) was officially held on 16-17 September 2021. 16 countries from 38 countries who attended spoke about the role of the judiciary in their respective countries

The 2nd J-OIC Conference was an agreement from the Istanbul Declaration on 14-15 December 2018. The Istanbul Declaration agreed on 3 (three) things; (1) all participants agreed to hold periodic conferences to discuss the Constitution and Human Rights to promote law enforcement and human rights; (2) the formation of a working group to discuss the form and future steps of this forum; and (3) agreed to hold the next conference with Indonesia as the host.

Following the mandate of the Istanbul Declaration, Indonesia through the 2nd J-OIC Conference Court Discussed the Role of the Judiciary in Several Islamic Countries. The 2nd Conference of the Judicial Conference of Constitutional

and Supreme Courts/Councils of the OIC Member States/ Observer States (J-OIC) was officially held on 16-17 September 2021. 16 countries from 38 countries who attended spoke about the role of the judiciary in the country. each. The Constitutional Court of the Republic of Indonesia (MKRI) hosted the JOIC meeting on 15-17 September 2021 in Bandung, West Java. This conference was held on a hybrid basis (offline and online) with the theme “Human Rights and Constitutionalism: The Contribution of Judiciary in Moslem Countries”. With sub-themes, Leason learned: The Role of Judiciary to Promote Humanity and Democracy in a Plural Society). This activity was attended by 38 countries, 36 countries attended online and only Pakistan and Turkey attended offline.

The conference was officially opened by President Joko Widodo. In his remarks, he hoped that the 2nd J-OIC Conference could bridge dialogue related to several global issues. “I hope that this cross-country conference between constitutional justices and supreme court justices will become a momentum to build a bridge for dialogue on various global issues that are of concern to many countries in the world, such as climate change, democracy, human rights, radicalism, terrorism, including the occurrence of humanitarian disasters as an impact of the Covid-19 pandemic,” President Jokowi said.

Meanwhile, Chief Justice of the Constitutional Court Anwar Usman in the opening of this international conference stated that



President Joko Widodo officially opened the 2nd J-OIC Conference on Thursday afternoon (9/16/2021) online. Photo: Public Relations/lfa.

the idea to establish a forum for judicial institutions for countries as members of the OIC began in 2007 during the time of Chairman of the Constitutional Court Jimly Asshidiqie when he was present at the 45th-anniversary celebration of the Turkish Constitutional Court. However, this idea has not materialized until finally in 2018 this idea was re-expressed so that similar institutions incorporated in the OIC can become pioneers in building a good judicial and constitutional system in the international community.

“Therefore, in this 2nd JOIC conference, the theme raised was the contribution of the OIC courts in the context of Constitutionalism and Human Rights. Another important thing that can also be conducted in this conference forum is to straighten

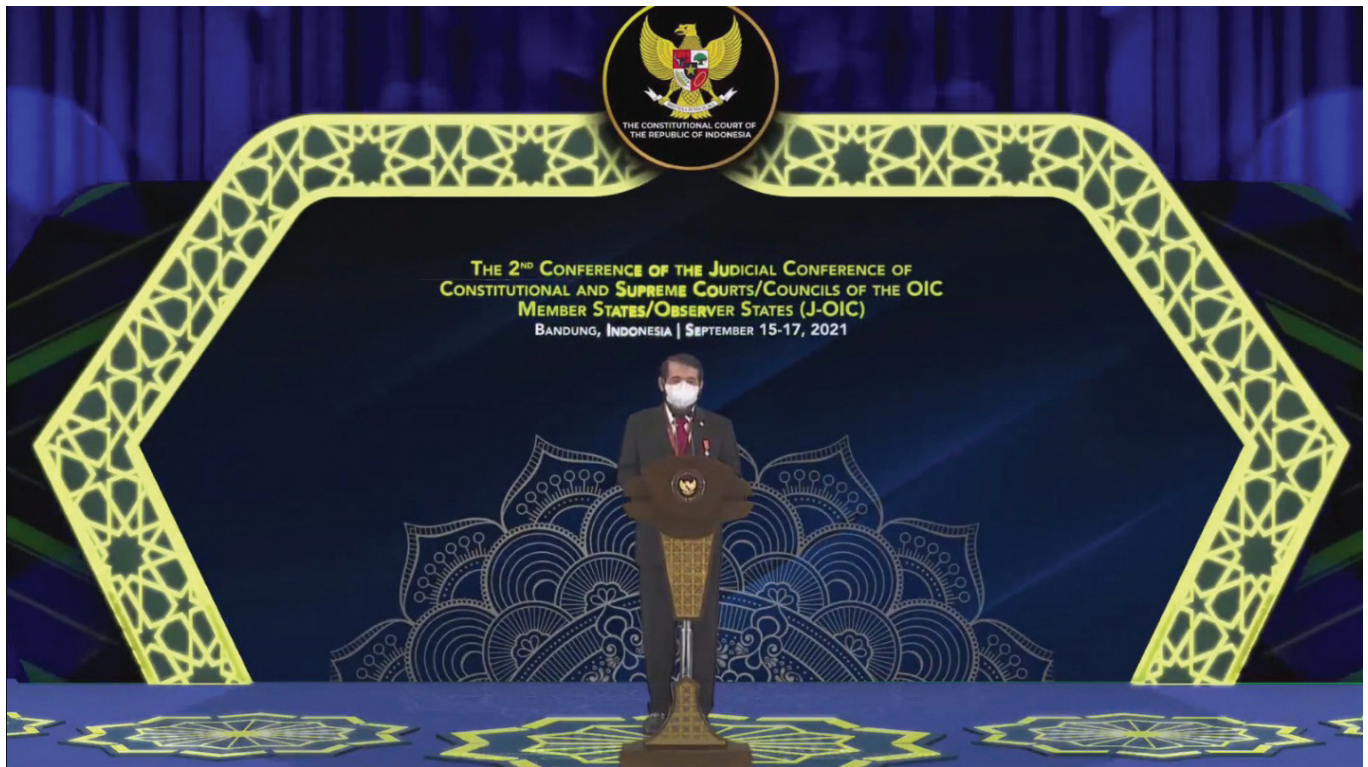
out the views of a small number of people, who think that the Muslim population and their beliefs are not in line with democratic values and human rights. By sharing views on practices and conceptions that apply in their respective countries, this forum can provide a complete understanding of the concepts and practices of constitutionalism and human rights, as well as their application by judicial institutions in OIC member countries,” said Anwar.

Conference Day One

On the first day, the 2nd J-OIC Conference was opened with presentations from ten countries; Turkey, Kazakhstan, Malaysia, Indonesia, Azerbaijan, Jordan, Iraq, Algeria, Egypt, Thailand, and

Mozambique. In the first session, the Constitutional Court of the Republic of Indonesia (MKRI) represented by Constitutional Justice Wahiduddin Adams conveyed the role of religious courts in carrying out the life of the nation and state. He delivered that Indonesia has a Muslim majority population. Islam gives color in interpreting the value of God. However, having power as the majority does not mean that the approach taken is domination, but rather with moderation.

“Indonesian Muslims are aware and understand that the right approach is to be a mercy to the universe (*rahmatan lil’alamin*). Being mercy means that Muslims do not only move for the benefit of the Muslim group. However, how all the actions and activities carried



Chief Justice of the Constitutional Court Anwar Usman delivered his remarks at the 2nd J-OIC Conference on Thursday (16/9/2021) in Bandung, West Java.

out have benefits for others and are useful for all,” said Wahiduddin using Arabic in his delivery.

In Indonesia, Wahiduddin continued, civil issues experienced by Muslims, such as in family matters (divorce, inheritance, and wills) are under the authority of the Religious Courts. Therefore, religious courts are often associated with family courts. In its development, the scope of authority of the religious courts was expanded to deal with certain matters of sharia economics, along with the development of sharia financial institutions. In Aceh, the central government has also opened up the possibility of applying a special *jinayat law* in the province to accommodate the wishes of the local community.

In the decision of the Constitutional Court, Wahiduddin

explained, there were several cases of constitutionality testing related to government policies regarding sharia fiqh and the scope of authority of the Religious Courts. For example, in the judgment on the judicial review of the Religious Courts Law. The appellant asked the Constitutional Court to expand the scope of authority of the Religious Courts by including criminal cases as part of its jurisdiction.

“The Constitutional Court rejected the appellant’s request with the stance that ‘... Indonesia is not a religious state based on only one particular religion, but Indonesia is also not a secular state that does not pay attention to religion at all and leaves religious affairs entirely to individuals and society,” said Wahiduddin.

Upholding Democracy in Turkey

Meanwhile, the Chief Justice of the Constitutional Court of Turkey Zühtü Arslan conveyed the role of the Turkish Constitutional Court in protecting and advancing democracy. He acknowledged that the Turkish Constitutional Court was originally intended to protect the basic values and principles in the constitution. “Democracy is the basic value of the Turkish Constitution,” he said on Thursday (9/16/2021).

According to Zühtü, the existence of the Turkish Constitutional Court is to ensure the protection of basic rights and freedoms that are a must for a democratic society. Therefore, the main task of a democratic state is to protect and promote these rights and freedoms.



Constitutional Justice Wahiduddin Adams accompanied by Chief Justice Anwar Usman, Constitutional Justices Saldi Isra and Suhartoyo conveyed the role of the judiciary in Indonesia.



The Chief Justice of the Turkish Constitutional Court Zühtü Arslan conveyed the role of the Turkish Constitutional Court in protecting and advancing democracy.



Dato' Suraya Binti Othman represented Malaysia at the 2nd J-OIC Conference

“In other words, the state must refrain from arbitrary intervention in the rights and freedoms of the people. Besides, it must also take the necessary steps to protect these rights effectively. The Constitutional Court’s role in advancing democracy can be traced through its decisions on the right to run in elections and the right to engage in political activities. For the Court, these political rights are an inseparable element of a pluralist and participatory democracy,” said Zühtü.

The Role of the Malaysian Judiciary

Meanwhile, Dato’ Suraya Binti Othman as a Judge of the Malaysian Court of Appeal said that access to justice is a core component of the rule of law. Furthermore, the

judiciary functions as a ‘vehicle’ for citizens to have their voices heard, rights exercised and to hold entities accountable for their decisions. It highlights the role of the courts in protecting the social, economic and cultural rights of people in Malaysia.

“People turn to Courts to fight for their basic rights and Governments turn to courts to interpret laws. Realizing the values of judicial independence and the rule of law. The judicial power then assumes the task of carrying out its responsibilities holistically in protecting social, economic and cultural rights in their respective communities,” said Suraya.

Suraya explained that Malaysia has always adhered to the concept of *wasatiyya* or moderation that upholds the values of mutual respect,

understanding and tolerance. As a multiethnic and multi-religious nation, Malaysia holds these values closely. “We believe that *wasatiyya* can and should contribute to protecting the human and democratic values as well as the economic, social and cultural rights of Malaysian citizens,” he said.

The Constitution Guarantees the Rights of Thai Muslims

Thailand’s Constitutional Court Judge Noppadon Theppitak in his presentation delivered a discussion entitled “Constitutionalism, Human Rights, and Judicial Justice in a Non-Muslim State: Thailand”. In this presentation, Noppadon revealed that Thailand is a Buddhist country with 93.5% of the population being Buddhist, while 5.4% is Muslim.

However, this figure does not imply discrimination against Thai Muslim groups because the Thai Constitution guarantees their existence on the same level as the majority religious group.

Noppadon further said that although the number of Thai Muslims is relatively small, they are the second largest religious group in Thailand. These Thai Muslims are treated equally in the same system in constitutionalism. Thai Muslims occupy four provinces in Thailand, such as Pattani, Narathiwat, Yala, and Satun. For these four regions in 1946 Islamic law was applied so that civil matters in these areas were tried in accordance with Islamic law.

“Essentially, the Thai Constitution states that everyone can enjoy freedom to embrace a religion including the freedom to practice any

form of worship. It does not endanger the safety of the state and does not conflict with public order or good decency. As a result, Thai Muslims in Thailand and for everyone belonging to a particular religion can enjoy the same rights and carry out the same obligations as Thai Buddhists,” added Noppadon.

On that occasion, also present as speakers, namely Malinovskiy Victor representing the Constitutional Council of Kazakhstan, Chairman of the Constitutional Court of Azerbaijan Farhad Abdullayev, President of the Constitutional Court of Jordan Hisham Al-Tal, Chairman of the Constitutional Council of Algeria Kamel Fenniche, Chairman of the Supreme Constitutional Court of Egypt Saeed Marey Amr, and Mozambique Constitutional Council Judge Albano Macie.

Day Two

The follow-up session of the 2nd J-OIC Conference was held again on Friday (9/17/2021) online and offline from Bandung, West Java. On the second day of the conference, five speakers from five different countries were present,; Pakistani Supreme Court Chief Justice Gulzar Ahmed, Russian Federation Constitutional Court Justice Gadis Gadzhiev, Bangladesh Supreme Court Chief Justice Syed Mahmud Hossain, Cameroon Supreme Court Judge Marie Louise Abomo, and President of the Constitutional Court. Supreme Palestinian Mohammed Al Haj Kazem.

Chief Justice of the Supreme Court of Pakistan, Gulzar Ahmed, in this international conference stated that the judiciary has an important role in advancing human rights



in a pluralistic society, including social, economic and cultural rights. Speaking of human rights, Ahmed continued that it means covering rights that are universal and owned by every individual, regardless of religion, ethnicity, gender because these rights are absolute and not a gift from the state.

Talking about human rights and the context of Islamic teachings, there is a view that is quite wrong to see that human rights are not in accordance with Islamic teachings which are considered not to give many rights to minorities. To ward off this negative assumption, the Qur'an actually mentions the nature of human creation. Thus, it does not only refer to Muslims, but to all mankind, both men and women. In addition, the only benchmark for measuring human status is truth.

In March 1949, during the

proclamation of independence, Ahmed revealed that the Constituent Assembly of Pakistan drafted the Constitution of the State of Pakistan which stated that it guaranteed the rights of minorities to freely express and practice their religion and develop the culture they believed in. This is also reaffirmed in the Preamble to the 1973 Basic Law. It provides basic rights to minorities, including the freedom to embrace religion and manage religious institutions as stated in Article 20, provisions on taxation for certain religious purposes written in Article 21, protection against educational institutions in relation to religion and others as stated in Article 22, and protection against discrimination in services based on religion or caste as stipulated in Article 27. Even to ensure the representation of minorities within the scope of the

Government, Articles 51, 59 and 106 of the Constitution state that the provision of quotas for non-Muslim groups in the National Assembly, Senate, and Provincial Assembly.

“ Article 25 of the Pakistani Constitution states that all citizens are equal before the law and are entitled to equal protection of the law, and there should be no discrimination based on sex. Therefore, the Supreme Court takes the basic rights and freedoms of all Pakistani citizens seriously. The judiciary is at the forefront to ensure that no injustice, cruelty, or violation of public rights occurs, because every time there is a case of violation of basic rights it will be brought to the Supreme Court,” said Ahmed. He was also present with Pakistani Supreme Court Judge Ijaz. Ul Ahsan in Bandung, West Java.



Chief Justice of Pakistan's Supreme Court Gulzar Ahmed conveyed the important role of the judiciary in Pakistan.



The Russian delegation represented by Justice of the Constitutional Court of the Russian Federation, Gadi Gadzhiev, discussed about the religious and ethnic diversity in Russia.

Protection for Many Ethnicities and Religions

Meanwhile, Justice of the Constitutional Court of the Russian Federation, Gadi Gadzhiev, in her presentation said that Russia is a country with many ethnicities and religions. It is very important to reconcile these different values through dialogue. In Islamic human rights, they are based on dignity, mercy, and cooperation as described by Islamic jurists. It is manifested in the text of the Constitution of the Russian Federation and various international treaties which also form the basis of the system of protecting human rights throughout the world.

“Therefore, one can be sure of getting recognition and protection of

universal human rights,” explained Gadzhiev in his online presentation from Russia.

Basic Rights in the Bangladesh Constitution

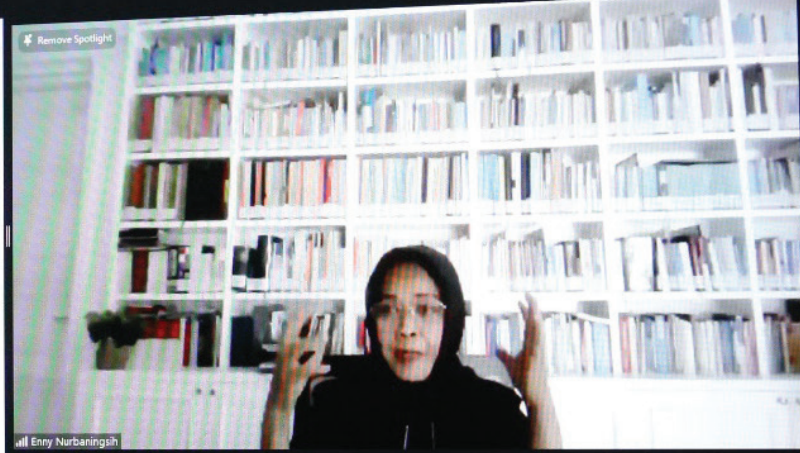
Chief Justice of the Supreme Court of Bangladesh Syed Mahmud Hossain in his presentation revealed the implementation and implementation of basic rights in the Bangladesh Constitution. The Bangladesh Constitution does not only guarantee basic rights and the scope of law enforcement, but also authorizes the High Court Division of the Supreme Court to implement them through directives or policies including on public officials. For example, Hossain mentions that the Bangladesh Constitution includes 18

basic rights in Section III that can be enforced by court order.

In addition, the High Court Division of the Supreme Court of Bangladesh is also authorized to issue warrants to enforce any legal obligations. “The Supreme Court of Bangladesh started its journey in 1972 by officially recognizing its responsibility to build social order especially in terms of the rule of law and democracy in Bangladesh,” Hossain explained at a conference moderated by Constitutional Justice M.P. Sitompul. ■

SRI PUJIANI/LULU ANJARSARI P

Allgemeine Soziale Staatslehre	Allgemeine Staatslehre
1. Teori asal mula negara dan hakikat negara	1. Teori kedaulatan
2. Teori terjadi negara	2. Teori unsur-unsur negara
3. Teori legitimasi kekuasaan negara	3. Teori fungsi negara
4. Teori tipe negara	4. Teori bentuk negara dan pemerintahan
5. Teori lenyapnya negara	5. Teori konstitusi
	6. Teori alat-alat kelengkapan negara
	7. Teori representatif
	8. Teori sendi-sendi pemerintahan
	9. Teori kerjasama antarnegara



CONSTITUTIONAL COURT JUDGES REVIEW LEGAL MATTERS, JUSTICE, AND THE AUTHORITY OF THE CONSTITUTIONAL COURT

Constitutional Justice Enny Nurbaningsih gave an opening lecture for the State Science course and the Constitutional Law and Legislation course, Faculty of Law, Gajah Mada University, which took place online, Saturday, (21/08/2021), Photo of Humas/Ilham WM

Constitutional Court (MK) in their duties and authorities as guardians of the constitutional rights of citizens, they must continue to collaborate with many parties. Through the constitutional judges, the Constitutional Court conducts socialization and public discussions to broaden the constitutional understanding of every citizen.

State, Legal and Constitution

Constitutional Justice Enny Nurbaningsih gave material at the Public Lecture of the Department of Constitutional Law, on Saturday (8/20/2021) online. In this activity, Enny gave material on two courses; Systematics of State Science and Constitutional Law and Legislation.

Starting the conversation, Enny stated that civic is a group of basic knowledge that discusses the nature of the state, the origin of the state which must be studied as part of the law faculty curriculum and is a required subject for other courses.

Enny said, civic is a science that studies the basic concepts and principles of the state in general. The study covers the same or similar things in countries that exist or have existed in this world, for example about the occurrence of the state, the disappearance of the state, the purpose and function of the state, the development of the state, the form of the state and so on.

Furthermore, Enny revealed that civic emphasizes things that are general in nature by considering the state as a general form and ignoring the special characteristics of states. "civic does not discuss how these general matters are implemented in a particular country. So, it has theoretical value," said Enny

in front of the new students of the Faculty of Law, Gajah Mada University, Yogyakarta.

On the same occasion, Enny also gave material on "Constitutional Law and Legislation". Enny said that the word democracy comes from the Greek words *Demos* and *Kratos*. *Demos* means people/audience, and *Kratos* means government. Thus, the definition of democracy is a government that is held from the people, for the people, and by the people.

According to Enny, the people are the holder of the highest power in the country and this can't be separated when we discuss democracy and people's sovereignty and they can't be

separated. "In the people's sovereignty system, it requires the people who should hold the highest power in the country," Enny added.

The Position of Islamic Law in the Formation of Regulations

Constitutional Justice Wahiduddin Adams was the speaker for the Virtual Legal Skills Training Education Workshop (PLKH) on Thursday (8/26/2021). The workshop with the theme "Practicum of Legal Proficiency Training and Transformation of Islamic Law in Legal Development in Indonesia" was organized by the Faculty of Sharia and Law of the Syarif Hidayatullah State Islamic University (UIN) Jakarta.

"The question that often arises; does Islamic law have a position and role in the formation of legislation in the political order of national law?" Wahiduddin said at the beginning of the conversation.

Wahiduddin stated, the First Principle of Pancasila is Belief in the One and Only God as the main basis and foundation as a foothold for the maintenance, implementation and development of the teachings and rules of Islamic religious law in Indonesia. The First Precept of Pancasila affirms that the state recognizes the oneness of God. Pancasila recognizes and guarantees the Indonesian population to implement religious rules and laws as a consequence of submitting to religious rules and laws determined by God Almighty.

"The First Principle, Belief in the One and Only God essentially contains a mandate that there should be no national law products that are contrary to religion or are rejecting or hostile to religion. I quote this from the words of Mochtar Kusumaatmadja in the 50 Years Grand Seminar of the National Law Development Agency. Mochtar Kusumaatmadja was minister



of justice and minister of foreign affairs. Meanwhile, Ismail Saleh, who once served as minister of justice, said that the benchmarks for implementing Islamic law are Pancasila, the 1945 Constitution and the needs of the community," said Wahiduddin.

The Constitutional Court in the Indonesian Constitutional System

Constitutional Justice Enny Nurbaningsih was a speaker in a public lecture with the theme "Constitutional Court in the Constitutional System of

Constitutional Justice Wahiduddin Adams was the speaker for the Legal Skills Training Education Workshop organized by the Syarif Hidayatullah State Islamic University (UIN) Faculty of Sharia and Law, Thursday (26/08) at the Constitutional Court Building. Public Relations/Bayu's photo.

the Republic of Indonesia" on Friday (8/27/2021) online. The event was held in collaboration with the Constitutional Court (MK) and Ekasakti University, Padang.

In the event, Enny said that the Constitutional Court was the result of the struggle for reform. "Without the Constitutional Court, we can't make the constitution the highest basic law of the country, because there is no one to test it," said Enny.



Constitutional Justice Enny Nurbaningsih was a speaker in an online public lecture organized by Ekasakti University Padang, Friday (8/27). Public Relations/Erwin's photo.

Furthermore, Enny added, the journey of the Indonesian people to generate institution that was given the authority to enforce the constitution, one of which was by testing the law (UU) against the 1945 Constitution, namely the reference from Moh. Yamin. According to Enny, Moh. Yamin suggested the need for a Great Hall that is given the authority to appeal the law.

Furthermore, after the amendment to the 1945 Constitution, explained Enny, judicial power is an independent power to administer justice to uphold law and justice. The judicial power is exercised by a Supreme Court and judicial bodies under it in the general court environment, the religious court environment, the military court environment, the state administrative court environment, and by a Constitutional Court. The Constitutional Court only submits to the constitution as a formulation of people's sovereignty. The Constitutional Court as interpreter and protector of the constitution (interpreter and the guardian of the constitution) to be applied and enforced in assessing the law.

Legal Values Living in Society

Chairman of the Constitutional Court (MK) Anwar Usman attended the groundbreaking ceremony marking the start of the physical construction of the Tahir Foundation Building Legal Laboratories, Padang on Friday (27/8/2021) afternoon. Regarding the Tahir Foundation Building Legal Laboratories, according to Anwar, the existence of this institution is useful for exploring legal values that live in the community. Anwar conveyed his gratitude to Dato Sri Prof Dr Tahir as the founder and funder of the Tahir Foundation Building Law Laboratories.

"He is very concerned about the world of education, setting aside every profit from his company for the world of education. Although the constitutional mandate has allocated 20 percent of the State Budget for education. What Dato Sri Prof Dr Tahir has conducted is an extraordinary contribution to the nation and state," said Anwar.

Pandemic Issues and Constitution

Turkey is the only country that regulates the pandemic. While other countries call it an epidemic. Likewise with the 1945 Constitution, it only mentions dangerous conditions in Article 12 of the 1945 Constitution. While technical rules regarding this matter are precisely regulated in laws and regulations such as Perpu No.1/2020 as the embodiment of Article 22 of the 1945 Constitution. The explanation was put forward by Constitutional Justice Daniel Yusmic P. Foekh in a Public Lecture with the theme "Protection of People's Constitutional Rights during a Pandemic" at Padang State University (UNP) on Friday (27/8/2021).

Daniel explained more clearly that while talking about the rights of citizens, it can't be separated from the discussion of constitutional rights as contained in the constitution. There are also other rights regulated or called legal rights. In addition, there are MPR Decrees related to human rights. Looking at the constitutions of UN member states,



Chief Justice of the Constitutional Court Anwar Usman attended the groundbreaking activity for the physical construction of the Tahir Foundation Building Legal Labor, on Friday (27/08) in Padang. Public Relations/Banji's photo.



Constitutional Justice Saldi Isra and Constitutional Justice Daniel Yusmic Foekh gave a public lecture “Protection of People’s Constitutional Rights During a Pandemic” in collaboration between the Constitutional Court and Padang State University, which took place offline and online, Friday, (27/08/2021), Photo Humas WM inspiration.

there are a number of constitutions that regulate the state of danger of epidemics and pandemics. In Indonesia itself, the rules regarding the handling of the Covid-19 pandemic are actually contained in many laws and regulations. Meanwhile, continued Daniel, based on the emergency constitutional law, there are conditions for a state of danger or urgency that force it to be enforced, including temporary as long as the situation is still an emergency. Meanwhile, after that, it is necessary to apply the normal rules and the emergency rules no longer apply. “Therefore, based on the pandemic statement in the constitution, the head of state is given the authority to save the country,” said Daniel from the UNP Senate Meeting Room.

In this public lecture, Constitutional Justice Saldi Isra also presented legal material entitled “Protection of People’s Constitutional Rights in a Time of Pandemic”. Guided by UNP Chancellor Ganefri as moderator, Saldi explained that constitutional rights are guaranteed by the constitution. In Saldi’s view, this issue is not only discussed in Indonesia, but also in the world because there is a struggle for the state to protect its citizens with the freedoms that

the citizens themselves have. “Almost all constitutions mention the task of the state, in the concept of political science, it is abstract, because it only becomes operational if it has been carried out by the government, or there is a government apparatus, so the task of the government is to protect the people,” said Saldi.

Justice and A Sincere Heart

When a judge punishes not according to his conscience, it means he punishes himself. Because justice is in the conscience and it can be born from a sincere heart. Thus, the highest court is the court of the heart. This is the expression described by the Chief Justice of the Constitutional Court Anwar Usman regarding the duties of constitutional judges when adjudicating and deciding a case that was applied to the Constitutional Court in a Public Lecture at the Muhammadiyah University of West Sumatra, on Friday (27/8/2021).

In this activity with the theme “The Constitutional Court and the Characteristics of the Procedural Law

of the Constitutional Court”, Anwar introduced students more deeply about the Constitutional Court as a guardian of the constitution and the constitutional rights of citizens. Anwar said that the Constitutional Court is an institution that was generated based on Article 24C Paragraphs (1) and (2) of the 1945 Constitution. Through this provision, the Constitutional Court is given the authority to judge at the first and final levels whose decisions are final. Therefore, the Constitutional Court has the authority to examine the law against the Constitution; decide on disputes over the authority of state institutions whose authority is granted by the Constitution; decide on the dissolution of political parties, and decide on disputes regarding the results of the general election.

“If there is a dispute, the Constitutional Court will conduct the trial. In 2019, the Constitutional Court had completed the settlement of election cases. Yet, people should keep in mind that any court in its decision will not be able to satisfy every party. There will be no judge who will be able to decide a case that truly satisfies all parties,” Anwar explained in the event which was also attended by



Chief Justice of the Constitutional Court Anwar Usman gave a Public Lecture at the Muhammadiyah University of West Sumatra, on Friday (8/27). Public Relations/Banji's photo.

the Chancellor of the Muhammadiyah University of West Sumatra Riki Saputra, the Bukittinggi Police Station, Josua Surbakti, and representatives from the Bukittinggi District Court.

Socialization of the Constitutional Court's Authority

Two Constitutional Justices, Manahan MP. Sitompul and Suhartoyo were speakers in a Constitutional Lecture organized by the West Sumatra Regional Police (Polda West Sumatra), Friday (8/26/2021) afternoon at the West Sumatra Regional Police Headquarters (Mapolda West Sumatra). This activity was carried out in collaboration with the Constitutional Court and the West Sumatra Police in an effort to improve the ability of investigators from the West Sumatra Regional Police regarding changes to the Criminal Code and Criminal Procedure Code through the Constitutional Court's decision.

Starting the discussion, Manahan said that the existence of the Constitutional Court is regulated in the 1945 Constitution; Article 24 paragraph (2). In the article, judicial power is exercised by a Supreme Court

(MA) and judicial bodies under it in the general court environment, religious court environment, military court environment, state administrative court environment, and by a Constitutional Court.

Manahan also explained that judges in making decisions must be following the values they believe in

through legal interpretation, even though decisions based on such interpretations and beliefs may be contrary to those with political and administrative power. The interpretation of the law used by the Constitutional Court in the process of reviewing criminal laws with the 1945 Constitution highly depend on the choice of interpretation by the judge. To determine that a criminal norm is biased or multi-interpreted, they use descriptive abstraction or use a grammatical interpretation of the tested norm.

"The Constitutional Court adheres to progressive law, that a legal concept is not confined by the text of the law alone, but a sense of justice that lives in society and useful law," said Manahan.

Meanwhile, Constitutional Justice Suhartoyo revealed that the Constitutional Court's decision could have implications for changes in criminal law norms, especially the formulation of criminal acts and changes in offenses in criminal acts, including the invalidation of a criminal law norm (decriminalization).



Constitutional Justice Suhartoyo and Judge Manahan MP Sitompul were speakers in the Constitutional Lecture organized by the West Sumatra Regional Police, Friday (8/26) at the West Sumatra Police Headquarters. Public Relations/lfa's photo.

Characteristics of the Constitutional Court's Procedural Law

Constitutional Justice Suhartoyo was a speaker at the 2021 Metro Jaya Police Special Education Technical Guidance for Legal Affairs organized by the Metro Jaya Police in collaboration with the Indonesian Advocates Association (Peradi) on Tuesday (8/31/2021) afternoon. In this virtual activity, Suhartoyo delivered the material on "Procedural Law of the Constitutional Court" from his office in the Constitutional Court (MK) Building.

"Talking about Constitutional Court's Procedural Law is the same as handling cases in general, both criminal. In the Constitutional Court there is a formal law, a procedural law. The procedural law of the Constitutional Court is the law that regulates the procedure in the Constitutional Court," Suhartoyo said at the event which was attended by 46 participants who were members of the police and students.

Suhartoyo delivered that every law that must be enforced in the Constitutional Court could become its material law. "So, the material law in the Constitutional Court in that case can't be counted because all existing laws in Indonesia can be the object of judicial review of the Constitution in the Constitutional Court. Every law can become the material law of the Constitutional Court's procedural law," he added.

Suhartoyo said that the procedural law of the Constitutional Court when associated with four powers, one obligation and one additional authority of the Constitutional Court, would bring different juridical consequences between all the powers and obligations of the Constitutional Court.



Constitutional Justice Suhartoyo was the speaker for the Special Education Technical Guidance for Advocates in the Legal Sector of the Polda Metro Jaya that was held virtually, Tuesday (8/31) at the Constitutional Court Building. Public Relations/Ifa's photo.

Guarding the Constitution

Constitutional Justice Wahiduddin Adams was a speaker in the General Studium webinar of the Islamic Family Law Study Program (HKI) at the Sharia Faculty of the State Islamic Institute (IAIN) Kudus on Friday (9/3/2021). This activity had theme "Millennial Student Contribution in Guarding the Constitution", Wahiduddin invited students to play an active role in guarding the constitution by not only

studying for the development of knowledge on campus but also in a larger context.

As an illustration, Wahiduddin asked students to explore the role of youth during the struggle for independence. Reflecting on this role, students today who are present with various information technology developments must also have more awareness of their role as agents of social change in their surrounding environment.



Constitutional Justice Wahiduddin Adams was a speaker in the General Studium webinar of the Islamic Family Law Study Program organized by the Sharia Faculty of the Kudus State Islamic Institute, Friday (9/3) at the Constitutional Court Building. Public relation/Banji's photo.

"As students who will study law, students must first understand the hierarchy of laws and regulations to be able to understand the context of their role in guarding the constitution," said Wahiduddin in the activity which was also attended by the Dean of the Sharia Faculty of IAIN Kudus Any Ismayawati, guided by moderator Rahma Aulia who also attended the event. IAIN Sharia Faculty Lecturer.

"To be able to guard this constitution, the younger generation must be equipped with student morals by first studying and understanding the 1945 Constitution by referring to the basic values of Pancasila," Wahiduddin said in front of a virtual number of 300 IAIN Kudus New Students for the 2021/2022 Academic Year.

Law enforcement

In any situation, whether it's a pandemic or not, the goal of the state is still being pursued. This was conveyed by Constitutional Justice Saldi Isra while giving a public lecture in the New Student Orientation of the Graduate

Program of the Faculty of Law (FH) Andalas University, Friday (3/9/2021) morning. This event was carried out online.

Saldi said the Constitutional Court in times of crisis avoided large numbers of people in the courtroom. Therefore, the Court conducted an online trial. This is very possible, because if the examination of the Act is examined, it is the norm. However, the settlement of regional head election disputes cannot be done entirely online. Thus, there are parties who have to come to the Court with strict health protocols.

"This is because the election of regional heads includes resolving concrete cases. Therefore, it highly depends on evidence and must be verified in the courtroom. If we look at, for example, yesterday's regional election dispute, the applicant always had a representative come to the Constitutional Court. Because there is time, the judge will clarify the evidence," said Saldi.

According to Saldi, the law must provide a substance capable of responding to the situation. If the

situation returns to normal, it will have to be returned to the situation before the pandemic. The legal substance must also respond to developments that occur during a crisis.

Constitutional Court's Procedural Law

Constitution Suhartoyo became a resource for the Special Advocate Profession Education (PKPA) virtually on Saturday (9/4/2021) afternoon. This event was a collaboration between the Faculty of Law (FH) of the As-Syafiiyah Islamic University with the DPC Peradi, West Jakarta. Suhartoyo presented the material "Proceeding at the Constitutional Court". Starting the meeting, Suhartoyo stated that the Constitutional Court's Procedural Law was highly dependent on the authority possessed by the Constitutional Court.

Suhartoyo revealed the difference between the Constitutional Court's Procedural Law in exercising its authority to conduct judicial review of the Constitution with the procedural law when the Constitutional Court exercised other powers. "When the Constitutional Court examined the law against the Constitution, the procedural law used was quite different from when the Court carried out its other powers," Suhartoyo continued.

Suhartoyo explained, when the Constitutional Court exercised the authority to examine laws against the Constitution, the nature of the case did not have any parties. There is an Petitioner but no Respondent or Defendant. It is different when the Constitutional Court exercises its powers in addition to examining the law, the nature of the case is that there are the Petitioners and the Respondents, there is a dispute of interest.

Suhartoyo also explained some reasons for the applicant to examine the law to the Constitutional Court;



Constitutional Justice Saldi Isra gave a Public Lecture "Law Enforcement in the Midst of a Pandemic: Opportunities and Challenges", for the orientation of new students of the Postgraduate Program at the Faculty of Law, Andalas University, Friday, (03/09/2021). Public Relations/Ilham WM's photo.

the applicant's constitutional rights were harmed by the enactment of the law, the constitutional damages were specific, actual and potential. In addition, there must be a correlation, a causal relationship between the constitutional rights guaranteed by the Constitution and the enactment of the Act.

Judicial Powers of Post-amendment to the 1945 Constitution

Deputy Chief Justice of the Constitutional Court (MK) Aswanto was the keynote speaker in the Special Advocate Profession Education (PKPA) activity organized by the Faculty of Sharia and Law of UIN Alauddin Makassar in collaboration with Peradi, on Sunday (19/9/2021) online morning. Aswanto delivered the material "Procedural Law of the Constitutional Court".

Aswanto explained about the judicial power after the amendment of the 1945 Constitution. Article 24 Paragraph (2) of the 1945 Constitution which states, "Judicial power is exercised by a Supreme Court and judicial bodies under it in the general court environment, religious court environment, military court environment, environment state administrative court, and by a Constitutional Court".

In addition, Aswanto explained the duties and authorities of the Constitutional Court as regulated in Article 24C Paragraph (1) of the 1945 Constitution. 7 of 2020 concerning the Third Amendment to Law no. 24 of 2003 concerning the Constitutional Court. In addition, the authority of the Constitutional Court is regulated in Article 29 paragraph (1) and paragraph (2) of Law no. 48 of 2009 concerning Judicial Power. Based on these provisions, explained Aswanto, the Constitutional Court has four powers and one obligation.

In the development of the implementation of its authority, said



Constitutional Justice Suhartoyo was a resource person for the Virtual Advocate Profession Special Education organized by the Faculty of Law, As-Syafiyah Islamic University with DPC Peradi West Jakarta, Saturday (9/4) at the Constitutional Court Building. Public Relations/Banji's photo.

Aswanto, the Constitutional Court said Article 50 of Law no. 24 of 2003 contradicts the 1945 Constitution. Article 50 contains provisions stating that the laws that can be tested in the Constitutional Court are laws that were promulgated after the amendment to the 1945 Constitution. The article was declared unconstitutional based on the Constitutional Court Decision Number 066/PUU-II/2004 in the case of judicial

review of Law No. 1 of 1987 concerning Kadin. In addition, the Constitutional Court is also authorized to examine Government Regulations in Lieu of Law (perpu) with the consideration that the perpu creates new legal norms with the same force as the law. ■

NANO TRESNA ARFANA/UTAMI ARGAWATI/
SRI PUJIANTI/ILHAM WM/ BAMBANG PANJI E./LULU
ANJARSARI P/NUR A.



Deputy Chief Justice of the Constitutional Court Aswanto was an online keynote speaker in the Special Advocate Profession Education activity organized by the Faculty of Sharia and Law of UIN Alauddin Makassar in collaboration with Peradi, on Sunday (19/9). Public Relations/Banji's photo.



THE CONSTITUTIONAL COURT, QUALITY OF LEGISLATION, AND UNDERSTANDING OF PEOPLE' CONSTITUTIONS

Chief Justice of the Constitutional Court Anwar Usman opened the Legal Drafting Technical Guidance (Bimtek) Batch II. It was also attended online by the Director General of Laws and Regulations of the Ministry of Law and Human Rights Benny Riyanto, Secretary General of APHTN-HAN Bayu Dwi Anggono, Director of Facilitation of Regional Regulation Design and Development of Legislative Designers Nuryanti Widyastuti and Plt. Head of the Center for Pancasila and Constitutional Education Center Imam Margono, Monday (24/8). The Court's Public Relations /Teguh's photo.

The Constitutional Court (MK) is a judicial institution authorized to examine laws against the 1945 Constitution. Thus, the Constitutional Court in that authority can't be separated from the existence of various laws and regulations that apply in the life of the state. In addition, as a guardian of the constitutional rights of citizens, the Constitutional Court plays a role in grounding the understanding of the constitution for every social class of society.

APHTN-HAN Legal Drafting Technical Guidance Batch II *Proper Legal Document Rules*

The Constitutional Court (MK) in collaboration with the Ministry of Law and Human Rights (Kemenkumham) and the Association for Teaching Constitutional Law and State Administrative Law (APHTNHAN) held Legal Drafting Technical Guidance (Bimtek) Batch II, on Monday (23/8/2021). This event was officially opened by the Chief Justice of

the Constitutional Court Anwar Usman from the Pancasila and Constitutional Education Center Building, that was also attended online by the Director General of Legislation at the Ministry of Law and Human Rights Benny Riyanto, the Secretary General of APHTN-HAN Bayu Dwi Anggono, and the Director of Facilitation for the Design of Regional Regulations and Nuryanti Widyastuti's Legislative Designer.

In the keynote speech for the opening of this activity, Anwar said that drafting laws and regulations is an important process in making legal documents. It does not only act as a

media that facilitates the preparation, but also as evidence when there are differences in the interpretation of the formulation of norms that have been enacted in the future. Therefore, the designer of the legal text must pay attention to good mechanisms and rules in its preparation. Because, he continued, this would have a direct impact on the resulting regulations becoming a legal norm.

"Therefore, the drafter or legal drafter is not only obliged to meet the target of legislation, but must understand the constitutional norms as the reference of the law in

question. Because misunderstanding the constitution can result in the law being declared unconstitutional, both formal and material," explained Anwar.

Legal Norms Must be Understood Textually and Contextually

Writing and reading legal norms must be conducted with a textual and contextual understanding. Legal scholars can't escape the doctrine of the importance of words and punctuation in a series of words in the legal language. This was conveyed by the Chief Justice of the Constitutional Court for the period 2003 – 2008 Jimly Asshiddiqie in the second day of Legal Drafting Technical Guidance (Bimtek) for the second day on Tuesday (24/8/2021).

In this virtual presentation, Jimly emphasized the importance of guidelines for understanding textual and contextual writing and reading a norm so as to achieve a complete interpretation of the constitution. In addition, Jimly also emphasized the need for legal drafters to understand a norm in an internal and external context.

"Here, the internal context means that we have to understand what the values contained in the text are. In addition, it must be learned. For example, how the original intention of the text of the law was made. So, be familiar with the minutes of the drafting and formation of the law. Read! So that later what is in the minutes will enrich us in reading a legal text," explained Jimly.

Judicial Review

On the next occasion, Deputy Chief Justice of the Constitutional Court Aswanto gave a description of the material on the Judicial Review for legal drafters. Aswanto said that the judicial review of the law or PUU was one of the four powers of the Constitutional Court mandated by the amended



Chief Justice of the Constitutional Court Anwar Usman with the Chancellor of the University of Mataram Lalu Husni after giving a key lecture on the Activities organized by the Student Representative Council, Friday (20/08) in Mataram. Public Relations/Supreme's photo.

1945 Constitution. In carrying out this task, the Constitutional Court compiles regulations related to procedural law that must be understood by the parties who file cases. Aswanto traces that the intended PUU relates to formal and material testing of a norm.

Improving the Quality of Legislation

Based on the teleology of harmonization law, the objectives are to minimize sectoral ego, strengthen coordination and togetherness, prevent deharmonization, and improve the quality of the legislation that will be produced. For this reason, the harmonization method must be carried out by aligning it with Pancasila, the 1945 Constitution, legislation that is higher or at the same level as the norms that will be drafted. This was said by Roberia as a resource person who was presented on the third day of the Legal Drafting Technical Guidance of APHTN HAN Batch II on Wednesday (8/25/2021).

Roberia reviewed in detail how a legislator can harmonize drafting techniques so as to produce an

agreement on the regulated substance as stated in the provisions of Article 51 paragraph (4) of Presidential Regulation 87 of 2014. In this presentation entitled "Harmonization of Legislations", Roberia said that the essence of legislation is that it regulates, protects, and guarantees rights and obligations so as to create a sense of security and comfort. So that the legislation can also provide legal certainty so that the certainty becomes a definite status.

"Therefore, in carrying out harmonization of legislation, it is necessary to understand what the legal, political, economic, social and government systems are before actually compiling a law," explained Roberia, who currently serves as Plt. Director of Harmonization of Legislation I Ministry of Law and Human Rights RI.

On the next occasion, Tyas Dian Anggraeni as the Head of Sub-Division of Legal Needs Research at the Center for Research and Development of the National Legal System gave material

on the Engineering of Academic Manuscripts. According to her, the activity of preparing academic texts is more about practice and through this technical guidance. She hopes to provide input on the problems faced by the legislators in the field. Tyas further explained that in accordance with the technique of forming academic texts, the same anxiety was present in the formation of the legislation related to material problems, the formation process, and institutions.

The language of the legislation must be understandable

The language used in drafting legislation must be firm, clear, and easy to understand. In addition, the language does not use words or phrases which in a norm are not clearly used in substance. It should be understood that the language of legislation has special characteristics; clarity, straightforwardness, and harmony in accordance with legal needs. The

explanation was delivered by Hernadi as the Head of Sub-Directorate for Harmonization of the Defense and Security Sector of the Ministry of Law and Human Rights who was presented at the Legal Drafting Technical Guidance for APHTN HAN Batch II, Thursday (26/8/2021).

Through this presentation entitled "Various Languages of Legislative Regulations", Hernadi invited the technical guidance participants to examine the characteristics of the language of the legislation. According to him, the language used in the preparation of a norm is subject to the rules of the Indonesian language, both in the preparation of words and the technique used in the Bill or RPP cannot be separated from the rules of Indonesian grammar. If a legislator wants to expand the understanding in a law, he needs to pay attention to his words and choice of words.

"In a legislation, a compiler may not use different terms to describe the same meaning. For example the use of

the words wages, salaries, or income. If in a norm we mention the word salary, then in its use in a paragraph or article in a legislation it must be consistent from beginning to end," explained Hernadi in an activity moderated by the APHTN Central Management HAN Rifandy Ritonga virtually.

Scientific Discussion Forum for Drafting Good Legislation

Plt (execution of duties) Head of the Center for Pancasila and Constitutional Education of the Constitutional Court Imam Margono officially closed the online Legal Drafting Technical Guidance (Bimtek) on Friday (8/28/2021) online. In front of 100 participants of this virtual training, Imam said that the Constitutional Court had carried out activities that involved various elements of society, ranging from advocates, mass organizations, women's organizations, NGOs, state administrators, teachers, lecturers, and students with various activity methods. In carrying out its function



Director of Facilitation for the Design of Regional Regulations and Development of Legislative Designers at the Ministry of Law and Human Rights Nuryanti Widyastuti, Plt. Head of the Center for Pancasila and Constitutional Education of the Constitutional Court Imam Margono and the participants during the closing of the Legal Drafting Technical Guidance (Bimtek) Batch II, Friday, (29/8). Constitutional Court's PR/Teguh's photo.

as a guardian of the constitution, the Constitutional Court has an interest in the harmonization of laws and regulations. Thus, it needs to be conducted in order to improve the quality of the preparation of laws and regulations, both regionally and nationally.

“Therefore, the Constitutional Court designed this legal drafting technical guidance activity by establishing cooperation between the three institutions. Through this effort, it is expected that it can become a scientific forum to discuss how to make good laws and regulations,” said Imam in the activity which was also attended by the Director of Facilitation for the Design of Regional Regulations and Virtual Development of Legislative Designers Nuryanti Widyastuti.

At the end of the event, the committee expressed its appreciation for the 3 best technical guidance participants, which were judged from the aspect of the value of the best training and seminars. The Best Three Participants were won by Indah Satria, a lecturer from the Faculty of Law, University of Bandar Lampung; The 2nd Best Participant was won by Yustina Niken Saraningtyas, a lecturer from the Atmajaya Faculty of Law, Yogyakarta; and Best Participant 1 was won by Achmad Edi Subiyanto from the Constitutional Court.

Improving the Understanding of Constitutional Rights for Primary School Civics Teachers

The Importance of Instilling Pancasila and Constitutional Values from Early Age

The Chairman of the Constitutional Court (MK) Anwar Usman officially opened the Event for Increasing

Understanding of the Constitutional Rights of Citizens for Teachers of Pancasila and Citizenship Education/ Civic Subjects (PPKn) in Elementary School Level, which was held by the Constitutional Court (MK) on Tuesday night (31/8/2021) online.

Anwar said the challenge to instill values about Pancasila and Citizenship to students at the elementary school level for mothers and teachers is not easy. However, these values are important and they need to be instilled in them from an early age. Because the inculcation of Pancasila and Citizenship values from an early age is part of the formation of the nation’s character and culture.

Anwar continued, the inculcation of the values of Pancasila and Citizenship can’t be separated from the introduction of the history of the birth of the Constitution or the 1945 Constitution and its amendments. Throughout the history of the Indonesian nation, starting from independence in 1945, the 1945 Constitution has undergone several changes.

Constitutionalism and Constitutional Rights

The second day of the Improving Understanding of Citizens’ Constitutional Rights of Elementary School Level for Civics Teachers which was held online by the Constitutional Court (MK) on Wednesday (1/9/2021) was filled with presentations of three speakers; Constitutional Justice Arief Hidayat, Professor of Hasanuddin University Judhariksawan, and Constitutional Law Expert Ni’matul Huda.

Constitutional Justice Arief Hidayat presented the material “Constitution and Constitutionalism”. Arief said that there is no country that has almost no constitution, which in English is called Constitution. “The Constitution has a broader meaning than the Basic Law. Because the Constitution can be written or unwritten. The written constitution is the Basic Law,” explained Arief.

In simple terms, said Arief, the Constitution is defined as the basic law used as a guide in the administration of the state. “Often people give the example of the United



Chief Justice of the Constitutional Court Anwar Usman opened an agenda to improve the understanding of the constitutional rights of citizens for teachers of Pancasila and Citizenship Education at the Bogor Elementary School, Tuesday (9/31) at the Constitutional Court Building. Public Relations/Banji’s photo.



Constitutional Justice Arief Hidayat when giving material at an online activity to Improve Understanding of Citizens' Constitutional Rights for Civic Primary Education Teacher Wednesday (1/9). Constitutional Court's PR/Teguh's photo.

Kingdom implementing an unwritten Constitution. That is not written at all, but not codified but scattered in several writings. Indonesia uses a written Constitution, codified in one text. In this case the 1945 Constitution," said Arief.

Constitutional Rights in the 1945 Constitution

Meanwhile, Professor of Hasanuddin University, Judhariksawan explained the material "Guarantee of People' Constitutional Rights in the 1945 Constitution of the Republic of Indonesia". Starting the meeting, Judhariksawan explained the meaning of constitutional rights. Judhariksawan explained the notion of constitutional rights as a set of rights for citizens that are agreed upon, regulated and guaranteed to be fulfilled based on the state constitution. The word 'set' is commonly used to make a kind of accumulation or sum of several regulated conditions.

"This set of rights is indeed given to citizens. For example, in Indonesia, there are regulations on

how to obtain citizenship. Why a person can get citizenship. This set of rights is regulated and guaranteed to be fulfilled in the 1945 Constitution," added Judhariksawan, who also explained that constitutional rights are not only contained in the Constitution, their meaning is broader, but also contained in the laws and regulations.

State Administration

The expert on constitutional law came; Ni'matul Huda with the material "State Administration System According to the 1945 Constitution of the Republic of Indonesia". Ni'matul explained about the ideals of Indonesian law. According to her, the legal ideals of the Indonesian nation are rooted in Pancasila as the Founders of the Republic of Indonesia established as the philosophical foundation in organizing the basic framework and structure of the state organization as formulated in the 1945 Constitution of the Republic of Indonesia.

"Pancasila is a way of life for the Indonesian people that expresses the

views of the Indonesian people about the relationship between humans and God, humans and fellow human beings, as well as humans and the universe based on a belief about the place of the individual human being in society and the universe. The legal ideals of Pancasila must reflect the goals of the state and a set of basic values listed, both in the preamble and the body of the 1945 Constitution of the Republic of Indonesia," added Ni'matul.

The History of Judicial Review

The third day of the Improving Understanding of Citizens' Constitutional Rights for Elementary School Level for Civics Teachers which was held online by the Constitutional Court (MK) on Thursday (2/9/2021) was filled with material presentations from the resource persons. Present was the Head of the Court's Public Relations and Domestic Cooperation Section, Fajar Laksono Soeroso who delivered the material "The Constitutional Court and the Procedural Law of Judicial Review".

During the meeting, Fajar explained the “Historicality of the Constitutional Judicial Review (CJR) and the Constitutional Court (MK)” as the history of judicial review of laws and the Constitutional Court in the world. “This is a very important frame when we talk and discuss about the Constitutional Court,” Fajar said to 179 teachers as online participants.

Techniques for Compilation of Applications for Judicial Review

The Clerk of the Constitutional Court Achmad Edi Subiyanto was present with the material “Techniques for Compiling an Application for Judicial Review”. It relates to the main authority of the Constitutional Court to examine laws against the Constitution. After the presentations from two resource persons, it continued with the practical activities of drafting requests for judicial review. The participants of the activity were divided into separate class groups to learn how to arrange systematics and application formats according to what was obtained from the previous material. After that, the participants continued their independent task of preparing the application for judicial review of the 1945 Constitution of the Republic of Indonesia.

Pancasila and Constitutional Right

The activity to Improve Citizenship Constitutional Understanding for Elementary School Education Teachers throughout Indonesia organized by the Constitutional Court (MK) online on 31 August-3 September 2021 was officially closed by Deputy Chief Justice of the Constitutional Court Aswanto on Friday afternoon (9/3/2021).

“Talking about the constitution can’t be separated from the history



Wakil Ketua MK Aswanto, saat menyampaikan ceramah kunci dalam Kegiatan Peningkatan Pemahaman Konstitusional Warga Negara Bagi Guru PPKn Tingkat SD se-Indonesia yang diselenggarakan MK secara daring, Jumat (3/9). Foto Humas MK/Teguh.

of the Indonesian nation. In forming a country there is of course a goal and how to achieve it. One of the goals of establishing an Indonesian state is to protect all citizens, ensuring that all Indonesian citizens must achieve justice and prosperity,” said Aswanto who delivered the keynote speech.

APHTN-HAN (Association of Teachers of Constitutional Law and State Administrative Law) Legal Drafting Technical Guidance Batch III Drafter of Legal Drafting and Constitutional Norms



Chief Justice of the Constitutional Court Anwar Usman with the Secretary General of the Constitutional Court M Guntur Hamzah opened an online Legal Drafting Technical Guidance activityBatch 3 in collaboration with the Ministry of Law and Human Rights and the Association for Teaching Constitutional Law and State Administrative Law, Monday (9/6) at the Constitutional Court Building. Public Relations/Banjir's photo.

The Constitutional Court (MK) in collaboration with the Ministry of Law and Human Rights (Kemenkumham) and the Association for Teaching Constitutional Law and State Administrative Law (APHTNHAN) held Legal Drafting Technical Guidance (Bimtek) Batch III. The opening of the technical guidance was held virtually on Monday night (6/9/2021).

Chief Justice of the Constitutional Court Anwar Usman as the keynote speaker of this event said that the drafting of legal documents, or more specifically the drafting of laws and regulations, is an important element in the process of forming a law and the regulations.

Anwar stated that the draft of legal documents in the preparation of a legislation is very important to be used as a medium that facilitates the preparation and discussion of a formation of legislation.

"Therefore, the formulators and drafters of a law must properly understand the process, mechanism and rules in legal drafting. A good and correct understanding in the preparation of legal drafting will appear broadly to understand the resulting legislation," explained Anwar accompanied by the Secretary General of the Constitutional Court M. Guntur Hamzah.

Law and Constitution

The second day of Legal Drafting Technical Guidance (Bimtek) Batch 3 for Lecturers of Constitutional Law and State Administrative Law, Tuesday (9/7/2021) presented a number of resource persons with various materials. Constitutional Justice Suhartoyo was present to present the material "Procedural Law for Judicial Review". I Dewa Gede Palguna was present with the material "Interpretation of the Constitution". Nuryanti Widyastuti delivered material on "Types and Hierarchy of Legislation". Then the Secretary of the Directorate General of Legislation, Priyanto, explained with the material "Legal Politics in the Formation of Legislation in Indonesia".

One of the speakers at this technical guidance, I Dewa Gede Palguna had served as a Constitutional Justice for two terms. Palguna presented the material "Interpretation of the Constitution". Palguna said that the most general understanding of the interpretation of the constitution is an activity that includes an understanding of the methods or strategies provided for people who are trying to resolve disputes regarding the meaning or application of the constitution.

"This is a general understanding of the interpretation of the constitution. But, what we get is that the interpretation

of the constitution is one way to elaborate the meanings contained in the constitution," said Palguna.

Furthermore, Palguna said that the interpretation of the constitution is not just an activity to match an event or a thing or a certain situation with the articles or provisions in the constitution. The interpretation of the constitution is more than that, because it seeks to elaborate on the meanings contained in the constitution. Thus, the interpretation of the constitution is a mechanism to find out or ensure whether the constitution has actually been implemented in practice in accordance with the meanings contained in it and the objectives to be realized by the constitution.

On the same occasion, Constitutional Justice Suhartoyo also filled the activity by presenting the material "Procedural Law for Judicial Review". Suhartoyo said that the authority to review the law (PUU) is one of the powers of the Constitutional Court mandated by the 1945 Constitution. Related to the authority of this PUU, Suhartoyo said there are two mechanisms, namely formal and material judicial review. If the formal examination being tested is the procedure for making a norm by the legislator, while the material is related to the substance of the norm.

Suhartoyo also explained a number of reasons for the applicant to review the law to the Constitutional Court, among others, the applicant's constitutional rights were impaired by the enactment of the law. These constitutional losses are specific, actual and potential. In addition, there must be a correlation, a causal relationship between the constitutional rights guaranteed by the Constitution and the enactment of the law being tested.

Academic Paper Content

The batch 3 of Legal Drafting Technical Guidance (Bimtek) for



Constitutional Justice Suhartoyo while giving material at the Legal Drafting Technical Guidance (Bimtek) Batch 3 for Lecturers of Constitutional Law and State Administrative Law online, Tuesday (7/9). Constitutional Court's PR/Teguh's photo.

Lecturers of Constitutional Law and State Administrative Law, entered the third day, Wednesday (8/9/2021) online. The speakers who delivered the presentation this time were Roberia, Adharinalti, and Reza Fikri Febriansyah, and Hendra Kurnia Putra.

In the first session of this third day, Plt. The Director of Harmonization of Legislation I, Roberia, delivered material on the Harmonization of Legislation. Roberia said the harmonization stage is part of the preparation stage. Regarding the harmonization of laws and regulations, it can't be separated from the legislation itself. These are regulations established and stipulated by state institutions or authorized officials through the procedures set out in the Legislation.

The next speaker was the Head of the Academic Manuscript Preparation Division of the National Legal Development Agency (BPHN). Adharinalti, delivered material on the Techniques for Compilation of Academic Papers. She said that academic manuscripts are manuscripts of research results or legal studies and other research results on a particular problem that can be scientifically justified regarding the regulation of the problem in the law.

Adharinalti revealed, Academic manuscripts must contain a philosophical basis, a sociological basis and a juridical basis. The philosophical basis contains legal ideals in accordance with Pancasila and the Constitution of the 1945 Constitution of the Republic of Indonesia. It is intended that a law has a vision and can be valid for a long time. The sociological basis contains the conditions of practice in society with the aim that the regulations can be effective because they are accepted by the community fairly. Meanwhile, the juridical basis of legislation has rules that are legally valid/consider legal reasons/guarantee legal certainty.

Learning Ratundang

The batch 3 of Legal Drafting Technical Guidance (Bimtek) for Lecturers of Constitutional Law and State Administrative Law, entered the fourth day on Thursday morning (9/9/2021). The Bimtek was attended by 100 participants online. There was a resource person, Head of Sub-Directorate of Standardization and Guidance for Drafting Legislation of the Ministry of Law and Human Rights (Kemenkumham), Andriana Krisnawati who delivered material on "Various Languages of Legislation".

Andriana said, the language of the legislation (Ratundang) is basically subject to the rules of Indonesian grammar, both word formation, sentence structure, writing techniques, and spelling. According to hrt, the language of laws and regulations is characterized by clarity or clarity of understanding, straightforwardness, standardization, harmony, and adherence to principles in accordance with legal requirements, both in formulation and writing methods.

"The way of writing must be straightforward and definite because it avoids the same meaning/confusion, has a frugal (simple) pattern, only the words that are needed are used. There are objective and suppress subjective sense (not emotional in expressing goals or intentions). It standardizes the meaning of words, expressions or terms used consistently and gives a careful definition of the name, nature or category of things that are defined," explained Andriana.

On the same occasion, technical guidance also held training on the preparation of laws and regulations. The 100 participants of the technical guidance were divided into 16 groups.

Official Closing of Bimtek

Secretary General of the Constitutional Court (Secretary General of the Court) M. Guntur Hamzah officially closed the online Legal Drafting

Technical Guidance (Bimtek) on Friday (19/0/2021). This activity was held in collaboration with the Constitutional Court (MK) with the Ministry of Law and Human Rights (Kemenkumham) and the Association for Teaching Constitutional Law and State Administrative Law (APHTN-HAN).

In front of 100 participants of technical guidance who attended virtually, Guntur said the purpose of technical guidance is to complement, develop and strengthen the competence of HTN-HAN lecturers and MK employees. After the technical guidance, the participants received a certificate as a legal drafter.

According to Guntur, drafting legislation does not only require science but also elements of art. Guntur hopes that this guidance on legal drafting will produce legal drafters who are reliable and master in drafting good laws and regulations.

"Legal drafters are expected to be in addition to legal drafting knowledge, art is also required. Because here how to manage legal languages which were previously spoken language, the language of phenomena in society, poured into formal language law, of course requires its own art and requires a broad understanding of knowledge," said Guntur.

Improving the Understanding of Citizens' Constitutional Rights for the Maranatha Academic Civitas

The History of Nation

The Constitutional Court (MK) in collaboration with Maranatha Christian University held an event to Improve the Understanding of Citizens' Constitutional Rights (PPHKWN). This activity was officially opened by the Chairman of the



Secretary General of the Constitutional Court, M. Guntur Hamzah (center) accompanied by the Director of Facilitation for the Drafting of Regional Regulations and Guidance of Legislative Designers Nuryanti Widyastuti (right) and Head of the Pancasila and Constitutional Education and Training Center Imam Margono officially closed the Legal Drafting Technical Guidance (Bimtek) Batch III which held online on Friday (10/9). Constitutional Court' PR/Teguh's photo.

Constitutional Court Anwar Usman on Tuesday (14/9/2021) night online at the Pancasila and Constitutional Education Center, Cisarua Bogor.

The Chief Justice of the Constitutional Court in a key lecture explained the history of the journey of the Indonesian nation. Since Indonesia's independence in 1945, the 1945 Constitution has experienced several ups and downs. Anwar explained that at least there were several main reasons that led to the need for amendments to the 1945 Constitution, because the 1945 Constitution was not sufficiently capable of supporting democratic state

administrators and upholding human rights. Furthermore, Anwar explained the history of Constitutional Court. The forerunner of the idea of the existence of the Constitutional Court in Indonesia.

Human Rights and Citizens' Rights

A constitutional state is a state bound by mutual agreement. Thus, constitutionalism is understood as a perspective on the state of the agreement. This was stated by Jimly Asshiddiqie on the second day of the online activity for Increasing



Chief Justice of the Constitutional Court Anwar Usman accompanied by Secretary General of the Constitutional Court M. Guntur Hamzah, Chief Executive Officer of the Pancasila and Constitutional Education and Training Center Imam Margono and the Dean of the Faculty of Law Univ. Maranatha Christian Andersen when opening the event on Increasing Understanding of Citizens' Constitutional Rights for the Academic Community of Maranatha Christian University, Tuesday (14/9). Constitutional Court' PR/Teguh's photo.

Understanding of Citizens' Constitutional Rights (PPHKW) for the Academic Community of Maranatha Christian University on Wednesday (15/9/2021). This activity was organized by the Constitutional Court (MK) in collaboration with Maranatha Christian University.

"As citizens, we have the same rights and obligations. Even though we are citizens of society, we should not be forced to be the same in all respects. We may have different beliefs, religions and others. The difference is for matters of a special nature, which require unequal treatment," explained Jimly, who presented the material on Constitution and Constitutionalism.

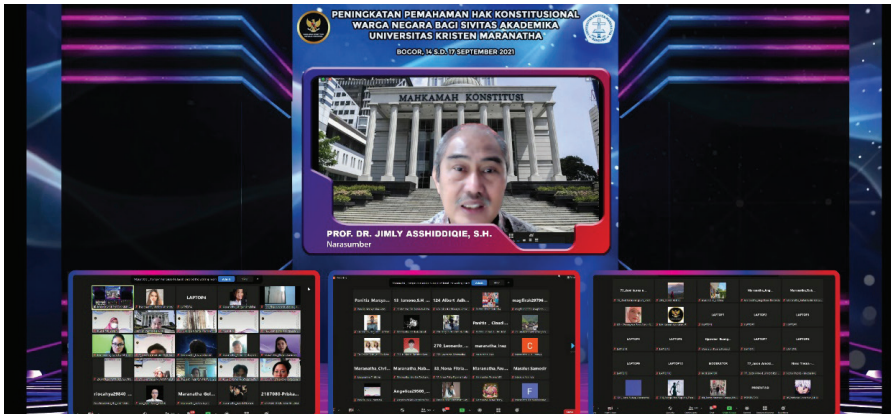
The Overview of Country Design

The third day of the Increasing Understanding of Citizens' Constitutional Rights (PPHKW) for the Maranatha Christian University Academic Community held by the Constitutional Court (MK) took place virtually on Thursday (16/9/2021). This event was a collaboration between the Constitutional Court and Maranatha Christian University, Bandung.

In the first session, Constitutional Justice Saldi Isra as speaker presented the material on "Proceeding at the Constitutional Court". Starting the meeting, Saldi said that the Constitution is a general description of the design of the state. The Constitution (UUD) of a country will provide a minimalist picture of the design of a country.

"Any constitution in the world shows the design of the state. We will find it difficult to understand the design of a country, if we do not know how the design of the state is. In the Constitution, we can see the form of a state, whether it is a federal or unitary state. There is a Constitution that explicitly says as a state explicitly says as a federal state," said Saldi.

Theory of Compilation of Applications for Judicial Review



Jimly Asshiddiqie was present on the second day of the event of Improving Understanding of Citizens' Constitutional Rights (PPHKW) for the Academic Community of Maranatha Christian University, on Wednesday (15/9) online. MK/Teguh PR's photo.

Aswanto explained that the proceedings at the Constitutional Court were in the context of fighting for constitutional rights that might be degraded by the birth of a law (UU). Constitutional rights as guaranteed in the 1945 Constitution of the Republic of Indonesia, if implemented properly, surely the hope of the founding fathers of the state to create a just and prosperous society will be achieved. Because aspects of the life of the nation and state have been guaranteed in the Constitution. ■

UTAMI ARGAWATI/NANO TRESNA ARFANALULLU

ANJARSARI P/NUR R

Furthermore, Substitute Registrar of the Constitutional Court, Syukri Asy'ari, as speaker explained the material "Techniques for Compiling an Application for Judicial Review". Before moving on to the practice of drafting an application for Judicial Review (PUU), Syukri would present theories on the preparation of a PUU application, particularly material testing.

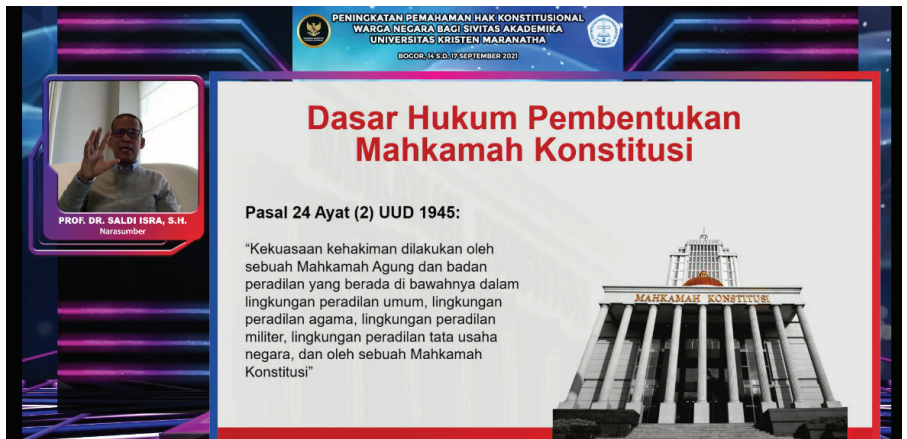
"The case for judicial review is a case involving only one party, what is being tested is the norm of the law. There is appellant but there is no Respondent or opponent," said Syukri.

Guarantee of Constitutional Rights in the Constitution

Deputy Chief Justice of the Constitutional Court, Aswanto, officially closed the activities for Improving The Understanding of Citizens' Constitutional Rights (PPHKWN) for the Maranatha Christian University Academic Community on Friday (17/9/2021) at the Pancasila and Constitutional Education Center, Cisarua Bogor. On that occasion Aswanto conveyed matters related to the guarantee of constitutional rights granted by the Constitution.

"I want to emphasize that there are two things that are interconnected. First, the guarantee of constitutional rights.

Second, how can the constitutional rights guaranteed in the Constitution be enjoyed by all Indonesian citizens," said Aswanto who delivered the keynote speech.



Constitutional Justice Saldi Isra while giving material to participants in the Online Citizenship Improvement Understanding of Constitutional Rights (PPHKW) for Academic Civitas, Maranatha Christian University, Thursday (16/9). MK/Teguh PR's photo.



Deputy Chief Justice of the Constitutional Court, Aswanto, officially closed the online activity for Increasing Understanding of Citizens' Constitutional Rights (PPHKWN) for the Academic Community of Maranatha Christian University on Friday (17/9). Public Relations MK/Teguh's photo.



Wali Nagari Pasia Laweh Zul Arfin Dt. Parpatih opened a series of events for the XIII Constitutional Week organized by the Center for Constitutional Studies, Faculty of Law, Andalas University in collaboration with Nagari Pasia Laweh, Friday (8/27) in the hall of the Darul Ulum Al-Falah Islamic Boarding School, Agam Regency, West Sumatra. Public Relations/Hamdi's photo.

THE ROLE OF CONSTITUTION

THE Poetry Reading Competition about Nationalism for Elementary School Children in Palupuh District and the Traditional Competition for Youth in Pasia Laweh Village in Agam Regency were held on Friday (8/27/2021) morning in the hall of the Darul Ulum Islamic Boarding School Al-Falah Nagari Pasia Laweh. The two competitions are part of the XIII Constitution Week activities

organized by the Center for Constitutional Studies (PUSaKO) of the Faculty of Law, Andalas University in collaboration with Nagari Pasia Laweh. Wali Nagari Pasia Laweh, Zul Arfin Dt. Parpatih opened the competition at 08.00 WIB.

"In the history, in the country, district, and region, especially in Nagari Pasia Laweh, this is the first time a poetry competition that has been held. It was directly facilitated by PUSaKO colleagues from the Faculty of Law Unand and under the auspices of the Constitutional Court. We thank you," said Zul Arifin in front of a number

of Constitutional officials, nagari traditional leaders and other attendees.

Nagari Pasia Laweh is an example of a customary law community in West Sumatra that can prove the constitutional truth of Article 18B Paragraph (2) of the 1945 Constitution. Nagari can run village government as part of the government of the Unitary State of the Republic of Indonesia. In the administration of village governance, Nagari Pasia Laweh has also succeeded in grounding constitutional values in customary law communities. In the last three years Nagari Pasia Laweh has succeeded in organizing several excellent programs that benefit the community, and assisting the state's task in protecting and fulfilling the constitutional rights of citizens in a number of constitutional innovations. (Nano Tresna Arfana/ Nur R.)

SIKD AWARD

THE CONSTITUTIONAL Court (MK) again held the conferment of the SIKD Award for Work Units. The SIKD Award was directly delivered by the Head of the Public Relations and Protocol Bureau of the Constitutional Court Heru Setiawan (who previously held the SIKD Award for July) on Wednesday (1/9/2021) afternoon on the 2nd floor of Building II of the Constitutional Court.

The Central Bureau of Information and Communication Technology occupies the first position as the work unit with the fastest performance response in August 2021. The Dynamic Archive Information System (SIKD) is a system used to support internal performance in the Constitutional Court and it is part of the Constitutional Court's knowledge management. Regarding the use of the SIKD, the Constitutional Court held a SIKD Award for work units.

The SIKD developed by the Constitutional Court now has features that are not only able to show performance responses, but are connected to various applications related to the performance of the Constitutional Court. Several applications, including SIBANGGALAN, e-SOP, Dashboard, and others. According to Guntur, later SIKD will form a judicial technology ecosystem that will assist the performance of the Court as a whole.

The main purpose of using the SIKD application is to provide archiving services that are easy, fast, effective and efficient. The Registrar and Secretariat General of the Constitutional Court felt a significant change after using the SIKD application in archive management. For example, the amount of paper and printer ink used is drastically reduced (less paper) and the impact is reducing the paper archive storage space so that it is more efficient, the speed of service delivery is more effective, and in terms of data security is safer. (Nano Tresna Arfana/Lulu Anjarsari P)



The Head of Public Relations and Protocol of the Constitutional Court Heru Setiawan presented the rotating SIKD Award trophy to the Central Bureau of Information and Communication Technology Sigit Purnomo, Wednesday (01/09) at the Constitutional Court Building. Public Relations/Ifa's photo.



Secretary General of the Constitutional Court M Guntur Hamzah was a speaker in the 3rd Professional Work Lecture organized by the Indonesian National Police, Thursday (02/09) at the Constitutional Court Building. Public Relation's PR/Banji's photo.

INDONESIAN CONSTITUTIONAL SYSTEM

SECRETARY General of the Constitutional Court (Secretary General of the Constitutional Court) M. Guntur Hamzah was a speaker in the 3rd Professional Work Lecture (KKP III) Fiscal Year 2021, on Thursday (2/9/2021). The activity organized by the Indonesian National Police in collaboration with the Constitutional Court, was themed "Legal Development Strategy to Improve Inter-Agency Synergy to Support National Development."

In his presentation, Guntur explained Indonesia's constitutional system. He said that since the 1945 Constitution of the Republic of Indonesia (UUD 1945) was amended, one of the proposed institutions was the Constitutional Court. It aims to maintain

the purity of the constitution. "Our constitution is the highest legal product in our country, positioned as the supreme foundation, the source of all legal sources that exist together with Pancasila. This is because the 1945 Constitution in its preamble is Pancasila. Thus, it is not surprising that Pancasila and the 1945 Constitution are like a coin that has two sides. They can't be separated but can be distinguished," said Guntur in the event which was also attended by Kombes Budi Indra Dermawan.

Furthermore, Guntur said that this was the same as during the reformation period, with the existence of corruptive practices during the New Order era, it was necessary to establish

a KPK. Whereas in other countries, there is no KPK. The formation of an institution, let alone a state institution, as mandated by the 1945 Constitution is not as easy as comparing other countries that do not have it.

In this context, Guntur continued, we see that other modern countries have succeeded in establishing constitutional institutions. Indonesia is the 86th country to establish the Constitutional Court. In some countries, the practice of the constitution when the Constitutional Court was formed there was a significant change. The constitutional practice is going well and the public understands the constitutional rights of citizens. (Utami Argawati/Nur R.)



M. Guntur Hamzah Secretary General of the Constitutional Court gave a keynote speech and opening to the 2021 Constitutional Law Festival, Saturday (04/09) online. Public Relations/Bayu's photo.

CONSTITUTIONAL COURT

SECRETARY General of the Constitutional Court (Sekjen MK) M. Guntur Hamzah gave a key lecture and opened the 2021 Constitutional Law Festival, on Saturday (4/9/2021). The

activity is a collaboration between the Constitutional Court and the Faculty of Law, Universitas Brawijaya (FH UB).

In his keynote speech, Guntur explained that in the constitutional justice scheme as an instrument to uphold constitutional values in accordance with Article 24 Paragraph (1) of the 1945 Constitution, the

Constitutional Court carries out the function of upholding law and justice based on the constitution through the implementation of constitutional duties and authorities. Guntur further said that the constitution is law, even the highest law in the context of a state (the supreme law of the land). The purpose of the constitution is closely related to the goals of the state, namely to achieve and realize justice, order, and the realization of ideal values such as independence or freedom and prosperity or common prosperity, as contained in the formulation of state objectives in the Preamble to the 1945 Constitution. With such understanding, the constitution has a position as the highest ideal norm. (Utami Argawati/Lulu Anjarsari P)

PLACEMENT OF THE CONSTITUTIONAL COURT'S MONUMENTAL DECISION

SECRETARY General of the Constitutional Court (MK) M. Guntur Hamzah received a visit from the Head of the National Archives of the Republic of Indonesia (ANRI) Imam Gunarto and all his staff on the 11th floor of the Constitutional Court Building on Monday (9/6/2021) afternoon. During the meeting, the main discussion was on the encapsulation plan for the monumental Constitutional Court Decision. One of the monumental decisions of the Constitutional Court is the Constitutional Court's decision which was granted the first time in the history of the Constitutional Court trial. In addition, the Constitutional Court's first ruling was the withdrawal of the application. The Constitutional Court's first Monumental Decision will be handed over to ANRI by the Constitutional Court. Therefore, the



Secretary General of the Constitutional Court M Guntur Hamzah received a visit from the Head of the National Archives of the Republic of Indonesia Imam Gunarto and his staff, Monday (9/6) at the Constitutional History Center of the Constitutional Court Building. Public Relations/Bayu's photo.

document will be under the supervision of ANRI and will be placed in the Constitutional History Center (Puskon).

"All requirements to make documents can be preserved will all be fulfilled by the Constitutional Court in accordance with state archive storage standards. Later the document will be made a special mockup that meets the standards for storing state documents," said Guntur.

Regarding the placement of the Constitutional Court's Monumental Decision for the first time at the Puskon (construction center), according to the Head of ANRI (National Archives of the Republic of Indonesia) Imam Gunarto,

it means that ANRI must maintain and manage archives according to regulations, in this case the Archives Law. According to Kasiman as the Archivist of the Constitutional Court, the encapsulation of the Constitutional Court's Monumental Decision will be published in the Puskon located on the 5th and 6th floor of the Constitutional Court Building. Two documents planned to use the encapsulation method are the Constitutional Court's Decision which was first granted its order and the Constitutional Court's Decree which was the first to withdraw the application. (Nano Tresna Arfana/Lulu Anjarsari P)

CONSTITUTIONAL COURT RECEIVING GOLD TROPHY OF WTP AWARD

SECRETARY General of the Constitutional Court (MK) M. Guntur Hamzah received a gold trophy with an Unqualified Award (WTP) from the Ministry of Finance, on Tuesday (9/7/2021) afternoon. This award was given to the Constitutional Court for the achievement of 15 times the WTP predicate in presenting the financial management report of the Constitutional Court. The Ministry of Finance Gold Cup received by the Secretary General of the Constitutional Court will later be handed over to the Chief Justice of the Constitutional Court, Anwar Usman. It was officially announced in an online event organized by the Ministry of Finance.

On that occasion, Guntur said that the Constitutional Court would continue to strive for transparency in the use of



The Constitutional Court, represented by the Secretary General of the Constitutional Court, M. Guntur Hamzah, received a Gold Trophy from the Ministry of Finance for Unqualified Opinion on the presentation of financial statements 15 times in a row, at the Constitutional Court building, Tuesday, (7/09/2021). Public Relations/Ihham WM's photo.

the budget by creating a system. Through this system, the use of the state budget in the Constitutional Court can be known by the public in real time (real time).

With reports on budget usage in real time, Guntur hopes that the application owned by the Ministry of Finance; SAKTI, can also be developed. Thus, it can be connected to applications owned by the Constitutional Court. Besides, the Constitutional Court is also developing the Financial Supervisory Agency e-audit.

“So that Financial Supervisory Agency auditor can see the documents to be checked online,” said Guntur. Regarding the WTP opinion given to the Constitutional Court, Guntur emphasized that this award is not an achievement, but an obligation to present financial reports properly as a budget user, so it does not need to be flattered. (Utami Argawati/Nur R)

THE 9TH INTERNATIONAL SUMMER SCHOOL

MAHKAMAH Konstitusi (MK) Turki sebagai Permanent Secretariat (Center for Training and Human Resources Development) dari Association of Asian Constitutional Courts and Equivalent Institutions (AACC) atau Asosiasi MK dan Lembaga Sejenis se-Asia, mengadakan “The 9th International Summer School” pada 7-8 September 2021. Tema yang diangkat yaitu “Current Problems in Execution of Judgments: Constitutional Justice” (Permasalahan Saat Ini dalam Eksekusi Putusan MK). Kegiatan yang berlangsung secara virtual ini dibuka secara resmi oleh Presiden Mahkamah Konstitusi Turki, Zuhtu Arslan, pada Selasa (7/9/2021) sore waktu Indonesia. Pada kesempatan itu dilakukan sharing berbagai permasalahan dan kasus-kasus terkait

eksekusi putusan peradilan konstitusi dari para peserta yang tergabung sebagai anggota AACC.

Dua Peneliti Mahkamah Konstitusi Republik Indonesia (MKRI), Ananthia Ayu Devitasari dan Muhammad Reza Winata menjadi peserta kegiatan ini. Selain melakukan diskusi dan sharing berbagai kasus, dua peneliti yang mewakili MKRI juga memaparkan makalah “The Binding Force of Constitutional Court of Indonesia Decisions: Key Issues and Future Challenges” (Kekuatan Mengikat

dari Putusan MK Indonesia: Isu-Isu Kunci dan Tantangan-Tantangan ke Depan). Beragam pembahasan disampaikan, mulai dari kewenangan MKRI menguji undang-undang terhadap UUD, memutus sengketa konstitusionalitas lembaga negara, memutus pembubaran partai politik, memutus sengketa hasil pemilu, serta kewajiban memutus pendapat DPR apabila Presiden dan/atau Wakil Presiden diduga melakukan perbuatan melanggar hukum. (Nano Tresna Arfana/Nur R.)



THE CONSTITUTIONAL COURT'S DECISION REGARDING ENERGY AND INFORMATION SYSTEMS

SECRETARY General of the Constitutional Court M. Guntur Hamzah was the keynote speaker in The International Conference on Environmental and Energy Policy (ICEEP) 2021 held by Sebelas Maret University Surakarta (UNS) on Saturday (9/11/2021) online. This international-scale conference had the theme "Strengthening Policy Planning and Implementation of Energy, Environment, Epidemiology and Information System as a Respond to Industrial Revolution 4.0".

In this conference, Guntur presented the substance of several Constitutional Court decisions related to energy, environment, epidemiology, and information systems. Guntur said that the Indonesian constitution contains various provisions on energy resources, the environment, and information systems.



Secretary General of the Constitutional Court, M. Guntur Hamzah was a speaker at The International Conference On Environmental and Energy Policy held by the Faculty of Law, State University of Sebelas Maret, Saturday (11/09/2021). Public Relations/Yuwandi's photo.

With regard to the Industrial Revolution 4.0, Guntur acknowledged that the COVID-19 pandemic had hampered the trial process in various judicial institutions, but this did not happen at the Constitutional Court. Because long before the COVID-19 pandemic, the Constitutional Court was used to implementing remote trial processes using video conferencing technology.

"This pandemic has forced and accelerated the litigants in the

Constitutional Court to adapt using the ICT system that has been prepared by the Constitutional Court for a long time. This is evidenced by the increasing number and percentage of case applications submitted online using the electronic filling application. Likewise with the trial process, almost all trials are conducted online via video conference using the Zoom application," said Guntur. (Sri Pujianti/Lulu Anjarsari P)

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