International Journal of Innovation, Creativity and Change. www.ijicc.net
Volume 10, Issue 4, 2019

Application of the Principle of the Due Process of Law by the Constitutional Court on Community Organisations

Husnu Abadi[a], Heni Susanti[b], [a,b]Faculty of law, Universitas Islam Riau, Email: [a]mhdhusnu@law.uir.ac.id, [b]heni@law.uir.ac.id

The application of one of the principles of the concept of the rule of law, namely the principle of due process of law, by the Constitutional Court in the examination of laws, causes the articles for which the petition to be judged to be contrary to the constitution. There are 2 Constitutional Court decisions that use the principle, namely in Decision No: 6-13-20 / PUU-VIII / 2010, concerning the review of Law No. 16 of 2004, concerning the Indonesian Attorney General's Office, Law No. 4 / PNPS / 1963, concerning the Safeguarding of Printed Goods which disturb Public Order, and Decision No. 11-17 / PUU-I / 2003, concerning Law No. 12 of 2003, concerning General Elections for Members of the DPR, DPD, Regional DPR. This study states that the legal politics of making laws that: (1) authorise the government to set something against the law without a judicial process: (2) formulating a group of individuals whose rights are elected without a judicial process, is against the constitution. The principle of law enforcement that requires everything to be processed through justice is a principle that was raised and followed by the Constitutional Court, and rejected any law enforcement process that did not go through the judicial process. However, the legislators again used the old legal politics, namely the process of law enforcement without going through a judicial process, when the President of Indonesia issued Regulation No. 2 of 2017, concerning Amendments to Law No. 17 of 2013, concerning Community Organisations. This regulation has become Law No. 16 of 2017, after the Parliament gave its approval to the Perpu referred to on October 24, 2017, through a vote. 7 factions agreed (PDIP, Golkar, PKB, PPP, Nasdem, Hanura and Democrats) and 3 factions refused (Gerindra, PKS and PAN).

Key words: *Due Process of Law, Constitutional Court, Judicial Review.*

Introduction

Indonesia has ended the era of the authoritarian political configuration since its retreat of Suharto from the presidency on May 21, 1998, but that did not make all legal products produced in his time also to end. The configuration of democratic politics has indeed begun and is now more than 2 (two) decades-old (Husnu: 2013; 91). The legal products produced during the New Order era and the authoritarian character that they adopted, were still continued during the reform era. In the study of legal politics, certain political configurations will produce certain legal characteristics. An authoritarian political configuration will produce an oppressive, conservative, elitist and orthodox legal character while a democratic regime will produce an autonomous, populist and responsive legal character (Nonet: 1978; 33).

It was further stated that the legal character of the oppressive type, among others, was characterised by: prioritising order, using the law as an instrument of power from the ruling regime, demanding citizen compliance, accompanied by negating space for criticism / opposition, more dominant tendencies such as coercion, accompanied by the use of discretion by the ruler which was very broad and evenly distributed. Unlike the law with the oppressive type, the law with the autonomous type which is a product of the democratic regime, prioritises the legitimacy of a legal product, by strictly enforcing existing procedures. The use of discretion is limited by regulatory signs with very limited delegation, using the law to achieve justice by minimising the influence of political power, giving space to the freedom to express criticism (Satjipto: 1985; 78).

Although the era of reform is often referred to as the era of democracy, the old forces can still stand with new forces. This is possible because democratic regimes always provide opportunities for participation to all parties, including those of the authoritarian and anti-democratic political forces of the past. This gives a reason why later legal products that are published, cannot escape from the character of the past law (Mirza: 2009: 241).

In simple terms, this can be exemplified by the politics of the Transitional Rules adhered to by the Constitution of the Republic of Indonesia, which enacted the laws that were in force during the Dutch colonial period, which have been enacted since Indonesian independence, even though the Dutch written law at the time was enforced with enthusiasm for oppressing the people of Indonesia. The KUHP articles, for example, were used by the Dutch colonisers to silence the movement that protested and opposed the Dutch power (Bagir: 2012; 34).

This is at least to answer some of the problems formulated by the politics of the Constitutional Court Act, which states that the authority of the Constitutional Court in judicial review is limited to laws issued after constitutional amendments. In other words, laws that were born before amendments (or laws produced by the authoritarian era of the New Order) are not under the authority of the Constitutional Court (Jimly: 2005; 299). This indicates that the legislators, when formulating the authority of a court, were full of struggles and battles between the old authoritarian forces and the new democratic forces, which finally resulted in a compromise formula by embracing the two political forces. But this is understandable because a legal

product is indeed the result of all existing political power struggles. The result can be a compromise between existing political forces, succumbing to certain political forces to dominant political forces, taking and giving between existing political forces, accommodating all political aspirations so as to give satisfaction to all parties or a win-win solution.

But in it's course, the Constitution decides all laws, including laws made before constitutional amendments. These cannot be purchased from constitutional testing. It is very contrary to the principle of the rule of law, where the rule of law must be upheld, when there are two types of laws that are not appropriate (i.e. unequal), that is, laws made before amendments that cannot be in accordance with laws, and laws that are produced as constitutional amendments that may be approved (Nazriyah: 2010; 398).

The New Order rose in 1966, a correction to the previous trip, which was marked by the September 30 Movement Rebellion in 1965. The main strength of the New Order was the anti-communist political force, in the military, in a society that is spread out in religiously based organisations or nationalists. Suharto's appearance as an anti-communist military figure succeeded in getting approval from Sukarno who supported sympathy for the Communist PKI forces, finally gained a very broad support, starting in 1971. Both the electoral law (Law No. 15) of 1969) and the composition of the position of the MPR, DPR and DPRD (Law 16 of 1969), which was compiled by the DPRGR, was compiled by President Suharto. At the beginning of the formation of the DPRGR in 1960, the composition and determination of names was approved by President Sukarno after winning several supporting parties (Hatta; 1966; 6)

Table 1: DPRGR membership in 1960 and 1968

	Classification	Presidential Regulation No. 4 1960		In 1968	
1.	Indonesian National Party	58		78	
	Indonesian party	1		===	
	Many people's deliberations	2		4	
	Indonesian Independence Supporters Association	===		11	
2.	Nahdhatul Ulama	47		75	

	indonesian company party	8		20	
	Indonesian tarbiyah association	4		9	
	Parmusi	---		18	
3.	Christian party	9		17	
	Catholic party	8		15	
4.	Indonesian Communist Party	39		===	
	Jumlah Golongan Partai		130		247
5.	Karya ABRI	35		75	
	Alim Ulama	31		FKPA=32	
	Laborers 26 + farmer 26	51		FKPB=32	
	Artist 2 + Reporter 2	4		FKPC=28	
	Woman 8 + young man 9	17			
	Veteran 2 + force 45 2	4		JUMLAH= 92	
	Cendekiawan 5	5			
	Cooperative3 + businessman 2	5			
	number of class of works		152		167
	deputy west irian	1	1	===	
	amount		283		414

In the period of 1 (one) decade, 1960-1970, there were two laws that would continue to apply until they entered the 2 decades of the reformation period, or in other words, that the two laws that were born during the authoritarian period, apparently still apply to democratic period

(reformation era). First, the law on the supervision of printed matter, which was published in 1963 (Law Number 4 / PNPS / 1963). The year 1963 was when the Indonesian revolution was heating up, because of the declaration of war on Malaysia, which Sukarno called the project of the neo-colonialist and imperialist forces to surround Indonesia. At that time the world was still in a cold war situation between the communist bloc and the capitalist bloc. (Paradise; 2015: 320). Sukarno's leadership was seen as giving wind to the revolutionary forces driven by the communists, through recognition of the presence of the PKI based on Presidential Decree No. 7 of 1959 (Fajar, 2013: 31). This communist force was balanced by an anti-communist force, where the Army was in the highest position. This attitude of the Indonesian Army began when the communists carried out a rebellion and the forcible takeover of power in Madiun in 1948 (Samssudin; 2004: xiii Article 1). This law gives the Attorney General the authority to ban and confiscate all printed matter (books), which are considered to interfere with public order and the prohibition to keep them.

Second, the law regarding the election of DPR and DPRD members, which contains the requirements of prospective members. Since the failed G30S / PKI rebellion in 1965, the New Order regime determined that the communists were traitors to the nation and state of Indonesia, and had carried out a rebellion against the legitimate government twice. The ultimate goal of the communist uprising was to make Indonesia a communist state, and to bury the ideology of the Pancasila state. For this reason, all political forces have agreed on a joint consensus: (1) implement the Pancasila and the 1945 Constitution in a pure and consistent manner, (2) agree on a mechanism so that the Pancasila and the 1945 Constitution remain and there is no attempt to make changes. To implement consensus number two, one-third of the members of the MPR must be appointed by the president from ABRI circles. (Nugroho: 1985; 82). One of the conditions for candidates for the DPR is not to be involved in the PKI G30S rebellion or other prohibited movements including the organisations under its control. This was formulated in article 16 letter d of Law No. 15 of 1969, which stated that a candidate must not be a former member of the banned Indonesian Communist Party organisation, including its mass organisation, or not someone who was directly or indirectly involved in the Movement of the Counter-Revolutionary Movement / PKI or other prohibited organisations. This formula is always repeated in the law that came later, and came to the formulation of the law that was born during the reform period, namely Law no. 12 of 2003 which is located in Article 60 paragraph g, with the formula that candidates for members of the DPR, DPRD must not be former members of the banned Indonesian Communist Party organisations, including their mass organisations, and not people who are directly or indirectly involved in the movement or banned organisations.

The two laws, especially articles which are specifically considered contrary to the constitution, were filed by the petitioners before the Constitutional Court, to examine the constitutionality aspects, with the main problems being:

(1) Whether the granting of authority to the Attorney General to ban and confiscate printed materials is in accordance with constitution or contrary to the constitution. The main problem is not the limitation of human rights but on the authority of the Attorney General who has the power to investigate, and at the same time decide on the existence of errors in the form of disruption to public order.
(2) Whether the formulation of the law which makes the requirements of candidates for legislative members, who must not be a former member of the banned Indonesian Communist Party organisations including its mass organisations and not those directly or indirectly involved in the movement / PKI or other prohibited organisations in accordance with the constitution. The events of the rebellion that occurred in 1965, more than 38 years ago, 1965-2003, led to a normalisation of a law that still prohibits people who were formerly party members of the party legally, according to the law in force at that time, to nominate the legislature, and whether this contradicts with the constitution or not. Likewise, the determination of a person to be a member of the PKI or someone directly or indirectly involved in the rebellion, the decision on that matter is determined unilaterally by government institutions, contrary to the constitution or not (Fajar; 2006; 161).

Results of Study and Discussion

After the fourth stage of the constitutional amendment in 2002, the Constitutional Court was formed in 2003, and a new era began in the Indonesian rule of law system, namely the authority to examine a law whether it was against the constitution or not, and that authority was exercised by Constitutional Court (Estiko; 2003: 102). The law is a legal product produced by two state institutions namely the House of Representatives and the President of the Republic of Indonesia, both of which are political institutions, the contents of which are carried out through a general election process. Because this law is the result of a political process, it is very likely that a law is formulated in accordance with the dominant political aspirations in the state institution, or is the result of a compromise of various existing political forces (Puspitasari; 2016; 562). Therefore, the approach of a political institution is not focused on whether the formulation is in accordance with the constitution or not, and this is not the main consideration.

Testing Article 60 paragraph g of the Election Law, including the initial case of the application for judicial review received by the Constitutional Court, was a review of Article 60 paragraph g of Law No. 12 of 2003, concerning General Elections for Members of the DPR, DPD and DPRD (hereinafter referred to as the Election Law), which was submitted by Petitioner I (consisting of Prof. Dr. Deliar Noer, Ali Sadikin, Dr.Ir. Sri Bintang Pamungkas, Dr. Titleherry Justam and 24 other names), and applicant 2 consisted of Sumaun Utomo, Achmad Soebarto, Mulyono SH. With regard to the legal standing of the petitioners, 22 of the Petitioners did not fulfill the requirements as petitioners because they were not former PKI members, including their mass organisations, nor were they directly or indirectly involved in the G30S / PKI and were not the files of other prohibited organisations.

In its consideration, the Constitutional Court is of the opinion that neither the 1945 constitution nor the laws governing human rights (Law No. 39 of 1999), do not justify discrimination based on differences in religion, ethnicity, race, ethnic group social status, economic status, gender, language, or political beliefs. The Constitution also affirms that all citizens are equal in law and government with no exception, and everyone has the right to recognition of guarantees, protection and certainty of the law that is fair and equal treatment is given before the law. The constitution also affirms that every person has the right to be free from discriminatory treatment on any basis and has the right to get protection against discriminatory treatment, in accordance with Article 21 of the Universal Declaration of Human Rights.

The Court also believes that the constitutional rights of citizens to vote and be elected are rights guaranteed by the constitution and international conventions, so limiting irregularities, and the elimination of said rights constitutes a barrier to human rights. However, limitation of a person's rights and freedoms through the law is still permitted, but these restrictions must be based on strong and reasonable reasons, proportional and not excessive. The restriction referred to can only be done with the intention solely to guarantee the recognition and respect for the rights and freedoms of others and to fulfill fair demands in accordance with moral considerations, religious values, security and public order in a democratic society. However, the Court is of the opinion that the limitation formulated in Article 60 paragraph g of Law No. 12 of 2003 concerning elections, is precisely because it only uses political considerations. In addition, in the case of restrictions on the right to vote, it is usually only based on considerations of incompetence, such as human factors and mental illness, as well as impossibility, for example, because the right of choice has been revoked by court decisions that have permanent powers, and are generally individual and non-collective in nature.

Prohibition of certain groups of citizens to run for legislative members, as formulated in Law no. 12 of 2003, containing nuances of political punishment to groups as intended, which in the rule of law every prohibition that has a direct bearing on the rights and freedoms of citizens, must be based on court decisions that have permanent legal force.

The Court also believes that MPRS Decree No. XXV / MPRS / 1966, which until now is still valid, is related to the dissolution of the Indonesian Communist Party and the prohibition of the spread of the teachings of Communism, Marxism and Leninism, which is completely unrelated to the revocation and limitation of the right to vote by both active and passive citizens, including former members of the Communist Party Indonesia.

In criminal law, specifically relating to criminal liability, responsibility can only be requested from the perpetrators (Dader), those who participate (Mede Dader) or those who help (medeplichtige) and an action that is contrary to law, a sense of justice, legal certainty and principles - the rule of law if those responsibilities are borne by someone who is not directly involved.

In other considerations, the Court is of the opinion that the provisions contained in the Election Law are no longer relevant to national reconciliation efforts, which have become a joint determination of the Indonesian people towards a more democratic and fair future. The involvement of the PKI in the G30S rebellion was undoubtedly by most Indonesians and apart from the continued validity of MPRS Decree No.XXV / MPRS/ 1966, but individuals who were former PKI members and mass organisations under their control. They had to be treated equally with other citizens without discrimination. Based on the above considerations the Court stated that article 60 paragraph g of the Election Law, is contrary to the constitution and does not have binding legal force. Upon this decision Achmad Roestandi gave a dissenting opinion by stating that the limitation of the enforcement of human rights allowed by the human rights regime, was followed by this law, and that it was situational or not permanent. This had also been done by Germany against members of the Nazi party (for officers) and this was valid until 1956. Likewise, the United States is a democratic country, but imposes strict restrictions by establishing Guantanamo prison in Cuba. Therefore, the legal policies adopted by this law, have been correct and not appropriate when judged by the Court. Thus, the legislative review is more appropriate than the judicial review.

Testing Law No. 4 / PNPS / 1963 (Book censorship Law) and Law No. 16 of 2004. Application for testing of these 2 laws, separated in 3 case numbers, where case I (No. 6 / PUU-VIII / 2010) was filed by applicant I Darmawan MM, author of the book), Case 2 (No. 13 / PUU-VIII / 2010, submitted by Petitioner 2 M. Chozin Abdullah MAIA, General Chairperson of PB HMI MPO with 4 others), while Case 3 (No. 20 / PUU-VIII / 2010) was submitted by Petitioner 3 (Indonesian Social History Institute , ISSI).

The main problem in this test lies not in the limitations formulated by the book censorship law, that the writings contained in printed materials must not be in conflict with the public interest, but with regard to granting authority to the Attorney General to ban and confiscate goods in print. This means that the Attorney General, in his general duties, is a public prosecuting body, in which the guilty verdict is not in the hands of the court, but by the book censorship law being given authority other than as a public prosecutor, as well as a judge, who decides who is guilty of the contents of printed matter.

In its consideration, the Constitutional Court touched on the necessity in a state of law such as Indonesia, of the absolute existence of due process of law, namely law enforcement in a justice system. This means that if an act is categorised as an act against the law, the process must go through a judicial decision, so that the prohibition on the circulation of printed matter, which is considered to be able to disturb public order, cannot be justified to be submitted to an agency without going through a judicial decision.

The authority of the Attorney General forbidding the circulation of printed matter in casu books without going through a judicial process, is one of the approaches of the state of power, not a rule of law like Indonesia, as confirmed by the 1945 Constitution, the state of Indonesia is a

state of law. In the past, the Government could dissolve some political parties without going through a judicial process, which was then dispensed with a change/amendment to the constitution that determined that the dissolution of political parties became one of the authorities of the Constitutional Court. Likewise, the process of impeachment of the President, in which before the amendment to the constitution was regulated through a full political mechanism, but now the amendment to the constitution has shifted the power approach to the rule of law approach, by including a judicial process in which the Constitutional Court has the authority to examine and decide whether or not about the President's wrongdoing, which according to the DPR's alleged violations, is the law carried out by the President.

In the matter of confiscation of books that are under the authority of the Attorney General, it is stated that confiscations without due process of justice, and by arbitrary expropriation of private property, are strictly prohibited by the constitution, where the formulation is that every person has the right to have private property rights and such property rights may not be arbitrarily taken by anyone. The act of taking possession of printed matter without legal procedures, especially without going through a judicial process, is an extra judicial execution that is strongly opposed in a state of law that requires due process of law, which means that law enforcement must go through a judicial process.

With regard to the permissibility of a limitation in upholding human rights, the Court is of the opinion that by following the formulation of the constitution, the limitation is only for the purpose of that which is explicitly stated, i.e. solely for the recognition and respect for the rights and freedoms of others and to fulfill just demands in accordance with moral considerations, religious values, security and order in a democratic society. Therefore, the granting of authority to ban something that constitutes a limitation of human rights, without going through the due process of law, is clearly not included in the definition of restriction of freedom as referred to in the constitution, Article 28J paragraph (2). On the other hand, the Court still believes that in a welfare state, government officials such as the prosecutor's office are certainly allowed to supervise printed matter, whether the printed material is contradictory or violates the provisions of a law. In the case of finding printed material that contradicts or violates the pornography laws (for example), the prosecutor will certainly submit to the competent agency to conduct an investigation, to investigate the printer, owner, dealer and printed material, so that the investigator can confiscate, search and even arrest the suspect, then prosecute and try in court, in accordance with the provisions of the applicable criminal procedural law.

In its decision, the Court finally decided that Law No. 4 / PNPS / 1963, concerning the Safeguarding of Printed Goods whose contents can Disrupt Public Order, contravened the constitution and declared that they do not have binding legal force. On this decision, Hamdan Zoelfa gave a different opinion (dissenting opinion). In matters of public interest, the state has a dual function of guaranteeing the recognition and protection of human rights (expressing opinions, seeking and storing information and private property rights), and enforcing security and public order. Deprivation of liberty is a violation of human rights, but in the public interest

the arrest of a person is justified as long as it is ordered by law. Therefore, although they agree that this law is contrary to the constitution, it needs to be maintained temporarily until a new law is better. Therefore, it is more precisely stated that Law No. 4 / PNPS / 1963 as conditionally unconstitutional, as long as it does not mean that the Attorney General's authority to ban the distribution of printed matter can only be done after first obtaining permission from the court.

In the concept of the rule of law, to decide if someone is guilty of committing an act against the law (onrechtmatige daad), required a judicial process where the judge will examine, hear and decide on the case. The development of the role of the state, which at first always used the power approach (executive power has a dominant role) and then metamorphosed to a legal approach, in which all state administrators bowed to and obeyed judicial decisions. Indonesia, too, when at first the position of the president was very central in deciding whether a person or a particular legal entity (political party or community organisation) was changed, was replaced by a judicial position. This can be seen from the paradigm shift adopted by Presidential Decree No. 7 of 1959, concerning the Conditions for Simplification of Parties and continued with the paradigm adopted by the Law on Political Parties and Work Groups (Law No. 3 of 1973), and then after the reform era the power to dissolve parties was granted to the Constitutional Court. The issue of freedom of association also experienced changes in the form of freedom to establish Community Organisations where the freezing or dissolution process must be carried out by the judiciary.

In fact, the concept of the rule of law is also known by another principle, namely contrario actus, where the authority to impose penalties or sanctions is imposed by the government official who issued the decision. In the world of licensing, which means giving rights to a person or a private legal entity, it is indeed the prevalence of rights that bear economic scope, and the relevant government official has the right to revoke the decision referred to. For example, the granting of a business permit, a building permit, a route permit, an entertainment permit, a forest concession permit and others that are in violation of certain conditions, can be canceled or revoked by the official who issued the decree. (Hadjon, 1993: 265). However, the application of contrario actus is generally in the field of licensing which bears the scope of the economic field. What if this is applied in a different field, for example in a field with a more dominant human rights dimension? This was stated by Yusril Ihza Mahendra (Mahendra; 2017: 2) regarding the Perpu test No. 2 of 2017 to the Constitutional Court by emphasising that in the regime of the enforcement of human rights, especially freedom of opinion both oral and written, and freedom of association, restrictions on freedom are indeed permitted both by the constitution and the human rights charter. However, the application of the principle of contrario actus to declare guilt whether or not a person or organisation, is only at the discretion of a government official, which is contrary to state principles law. Authorised to determine whether a person or an organisation which has a human rights dimension is guilty, the due process of law must be enforced in such a legal system.

Implications for Law No. 16 of 2017. This law is an amendment to the law on social organisation, Number 17 of 2013. The change was originally in the form of a Government Regulation in Lieu of Law, and after it was accepted or approved by the House of Representatives, the Perpu changed into an Act-Chief. The background to the birth of this law is because the old law did not regulate the problem of the actions or activities of a mass organisation that violated the principles of the organisation, which listed the principles of Pancasila. In another consideration, it stated that the old law did not adhere to the principle of contrarious actus so that it was not effective to impose sanctions on mass organisations that opposed the Pancasila principle. Law Number 16 the Year 2017 adds many articles of prohibitions on the principles and objectives of CSOs or activities and removes 18 articles that adhere to the principle of due process of law.

But the main problem is a fundamental change from the principle of due process of law adopted by Law No. 17 of 2013, to the principle of contraries actus which is adhered to by Law No. 16 of 2017. Translation is when a social organisation carries out activities that are contrary to Pancasila, or campaigns for a doctrine/understanding that is contrary to Pancasila. The government (in this case the Minister of Law and Human Rights) can declare the dissolution of the mass organisation through the revocation of the registered certificate or revocation of legal status. In the case of the dissolution of political parties, the law has undergone a fundamental change. If previously it was the president's authority, then in the reform era it was changed to the authority of the Constitutional Court. It also happened in the case of the dissolution of social organisations, which in the reform era, through Law no. 17 of 2013, the principle of due process of law, which gives authority to the Court to declare guilt whether or not the activities or understandings are developed by a mass organisation. However, as happened in this reformation era also, the President of the Republic of Indonesia changed and abandoned the due process of law paradigm and turned to the contrary actus paradigm, which according to Yusril Ihza Mahendra, the principle of action contrary was only known in the world of licensing law.

The principle of constitutionally, or the principle that a law must be considered in accordance with the constitution, still applies, as long as the law has not been declared contrary to the constitution, by a court. Therefore, Law No. 17 of 2017, which no longer adheres to the principle of due process of law, remains valid. The interesting thing later is when there is a request for judicial review of the said law in the Constitutional Court. Even if the Constitutional Court remains consistent with the principle of due process of law, it can be predicted that the articles that use the contrario actus principle in Law No. 16 of 2017, will be declared contrary to the constitution and declared not to have binding legal force.

Conclusion

From the two decisions of the Constitutional Court as explained above, it can be read that the legal position adopted by the judges of the court, namely that all law enforcement processes in

a rule of law must go through a due process (legal process), so that the legal policies of the legislators, which give authority to the government (including the attorney general's office or other apparatus) to impose sentences even though in the context of a supervisory process, this is considered as contrary to the constitution and is declared to have no binding legal force, since it is read. This outlines the views of judges, who reject the power approach adopted by the past regime and outlines a new view that prioritises the legal approach, which is always the judicial process. With regard to the existence of a law that was born later, that continued to follow the power approach, namely giving authority to government institutions to determine someone's wrongdoing, the court was only passive. This means that the Court will only take a stand, examine and try and decide, if there are parties who feel disadvantaged and submit a request to the Court.

REFERENCES

Constitution and Freedom of the Press in Indonesia, UIR Constitutional Journal, Volume 1, Number 1, June 2013, ISSN 1829 8095.

Asshiddiqie, Jimly, 2005, Freedom of Association, Dissolution of Political Parties and the Constitutional Court, Jakarta, Konpres.

Buana, Mirza Satria, 2009, Political Law of the 2009 Presidential Election Law, UII Law Journal, Volume 16, Number 2, April 2009.

Efriza and Rozi, Syafuan, 2010. Indonesian Parliament, Volleying Volksraad to DPD, Jakarta, Alfabeta.

Estiko, Didit Hariadi and Suhartono, 2003. Constitutional Court, New State Institution guarding the constitution, Jakarta, Center for Assessment and Information Services of the DPRRI,

Fajar, A. Mukthie, 2006, Constitutional Law and Constitutional Court, Jakarta, Konpres & Citra Media.

----------, 2013, Political Parties in the Development of Indonesian State Administration, Malang, Equivalent Press.

Firdaus, 2015. Design of Democratic Governance Stability and Party Systems, Bandung, Yrama Widya.

Hadjon, Philipus et al., 1993, Introduction to Indonesian Administrative Law, Jogjakarta, UGM Press.

Hatta, Mohammad, 1966, Our Democracy, Jakarta, Antara Library

Husen, Tb. Suchrawardi, 1985, Transitional Rules of the 1945 Constitution in Orderly Law in Indonesia, Bandung, Sinar Baru.

Kausarian, H., Sri Sumantyo, J. T., Kuze, H., Aminuddin, J., & Waqar, M. M. (2017). Analysis of polarimetric decomposition, backscattering coefficient, and sample properties for identification and layer thickness estimation of silica sand distribution using L-band synthetic aperture radar. *Canadian Journal of Remote Sensing*, *43*(2), 95-108.

Kausarian, H., Sumantyo, J. T. S., Kuze, H., Karya, D., & Panggabean, G. F. (2016). Silica Sand Identification using ALOS PALSAR Full Polarimetry on The Northern Coastline of Rupat Island, Indonesia. *International Journal on Advanced Science, Engineering and Information Technology*, *6*(5), 568-573.

Kausarian, H., Lei, S., Goh, T. L., & Cui, Y. (2019). A new geological map for formation distribution on southern part of south China sea: West Kalimantan, Indonesia. *International Journal of GEOMATE*, *17*(63), 249-254.

Mahendra, Yusril Ihza, 2017. Dissolution of HTI. Republika Daily 24 November 2017. 2.In this news, it was stated that Yusril Ihza Mahendra, as the attorney from former HTI spokesman Ismail Yusanto, filed a lawsuit against the government's decision to revoke the status of the legal entity HTI, at PTUN Jakarta.

Nazriyah, Riri, 2010. The Authority of the Constitutional Court in Testing Government Regulations in Lieu of Laws. Journal of Law UII, Volume 17, Number 3, July 2010.

Nonet, Philippe and Selznik, Philip, 1978, Law and Society in Transition: Toward Responsive Law, New York: Harper and Row.

----------, 2003. Responsive Law, Options in the Transition, Rafael Edy Bosco translator, Jakarta, Huma.

Notosusanto, Nugroho, editor, 1985, Achieving the National Consensus 1966-1969, Jakarta, Balai Pustaka.

Manan, Bagir, 2012, Dissecting the 1945 Constitution, Moh. Fadli, Editor, Malang, UB Press.

Puspitasari, Sri Hastuti and Mandasari, Zayanti and Nugraha, Harry Setia, 2016, Urgency for Expanding Applications for Dissolution of Political Parties in Indonesia, Legal Journal of Ius Quia Iustum UII, Volume 23, No. 4, October 2016,

Rahardjo, Satjipto, 1985, Some Thoughts on Interdisciplinary Threats in the Development of National Law, Bandung, Sinar Baru.

Samsudin, 2004, Why did the G30S / PKI fail? (an analysis), Jakarta, Obor Indonesia Foundation.

Wibowo, Mardian, 2015, Measuring Constitutionality An Open Legal Policy in Judicial Review, Jakarta, Journal of the Constitution, Volume 12, Number 2, June 2015

Laws and regulations

Constitutional Court. Decision of the Constitutional Court Number 6-13-20 / PUU-VIII / 2010

concerning Testing Law No. 4 / PNPS / 1963 and Law No. 16 of 2004

----------. Decision of the Constitutional Court No. 11-17 / PUU-I / 2003 concerning

Testing of Law No. 12 of 2003 concerning the Election of Members of DPR, DPD and DPRD.

Republic of Indonesia. Law Number 16 Year 2017 concerning Stipulation of Regulations

Government in lieu of Law No. 2 of 2017 concerning Amendment of Law Number concerning Social Organization into Law (ratified on 22 November 2017, State Gazette of 2017 Number 239, Supplement to the state sheet Number 6139)