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# Advances in Social Science, Education and Humanities Research

## Advances in Social Science, Education and Humanities Research

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## Proceedings of the International Conference on Environmental and Energy Policy (ICEEP 2021)

PROCEEDINGS OF THE INTERNATIONAL CONFERENCE ON ENVIRONMENTAL AND ENERGY POLICY (ICEEP 2021) ▼

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64 articles

#### Proceedings Article

### [Restoring What's Environmental About Environmental Law in the Indonesian Supreme Court](#)

Abdul Kadir Jaelani, I Gusti Ayu Ketut Rachmi Handayan, Lego Karjoko, Jaco Barkhuizen

This study aims to discuss the role of the Supreme Court in overcoming environmental pollution and destruction, so that a good and healthy environment can be created. The results show that the Supreme Court has tested 643 times related to the environment which resulted in significant changes related...

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### [A Philosophical Orientation: Judges Decision for Good Faith Land Sale and Purchase Cases in Indonesia](#)

Albertus Usada, I Gusti Ayu Ketut Rachmi Handayani, Lego Karjoko

This paper aims to find out the basic orientation of the judges in adjudicating good faith in land sale and purchase cases as a "ratio decidendi" in their decisions. The reason and consideration related to the context of the flow of legal discovery as a framework or paradigm of the Judges from the Judge's...

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## The Authority's Role and Policy in Protecting Citizens from Technology and Information Communications Dynamics During the Covid-19 Pandemic

Insan Tajali Nur, Jamal Wiwoho, Isharyanto

This study begins with the COVID-19 Pandemic's appearance in an era of rapid technological, information, and communication development that is highly intensive in the midst of society and has an effect on unforeseen social transformation. This cannot be accomplished by the present authorities' policies...

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**Proceedings Article**

## Dysfunction of Foreign Worker Employment Regulation to Prevent Xenophobia

Widiatama, I Gusti Ayu Ketut Rachmi Handayani, Lego Karjoko

This research studies the Presidential Regulation Number 20 of 2018 about Foreign Worker Employment. There is still a conflict of norm between the Presidential Regulation Number 20 of 2018 about Foreign Worker Employment and the Law Number 13 of 2003 about Manpower. The research method employed was normative...

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## Marine Resources Management for the Welfare of Fishing Community based on Pancasila

Aditia Syaprillah, Jawal Wiwoho, Waluyo

The welfare of fishing community in coastal and marine areas must be fulfilled, to achieve that goal related to the level of destruction in marine ecosystems and regulatory policy regarding the marine resource management. This article is a normative legal research with a conceptual approach. This is...

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## The Implementation of Simple, Expeditious, and Inexpensive Principle for Quality Private Court Decision Through E-Court

Heri Hartanto, Adi Sulistiyono, Isharyanto

E-court is one of the attempts in achieving a simple, expeditious, and inexpensive court process. The process of seeking justice in court is done to issue a quality decision to meet sense of equity of justice seekers as well as settling legal problems faced by parties. There are some problems faced by...

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## Islamic Law in Indonesia: Baḥtsul Masā'il Ijtihad and the Production of Knowledge

Asrizal Saiin, Abdul Kadir Jaelani, Muhammad Jihadul Hayat, Arifki Budia Warman, Muhammad April

Indonesia is a state of law, while the majority of the population is Muslim. As a result of this circumstance, Islamic religious-based fatwa institutions are widespread. Numerous religious organizations have their own institutions managing fatwas on legal issues from both an Islamic and organizational...

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## Decision of Constitutional Court on the Rights of the Child Out of Wedlock

Bambang Ali Kusumo, Abdul Kadir Jaelani, Dora Kusumastuti

The status of children in Indonesia has been regulated in various laws and regulations. In marriage law, it is defined that a legitimate child is a child born from or in a legal marriage. However, after the issuance of the Constitutional Court's decision on the status of children out of wedlock, a debate...

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## Developing and Brand Label Training in Kerak Home Industry Keliparek



Community Service Activities were carried out in Talang Kalijirak Village, Tasikmadu Karanganyar. In the village, there is a home industry that produces Karak. Sriwahyuni, a person with a disability, is one of the perpetrators of the home industry. Karak's production business aims to increase income....

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#### Proceedings Article

### Consumer Legal Protection: Building Legal Awareness in the Age of Globalization

Josef Purwadi Setiodjati, Jamal Wiwoho, Suraji

Consumers are one of the backbones of the economy. Without consumers, the production sector cannot run smoothly. The large population of Indonesia ensures that the country has large consumption power. However, whether this potential benefit followed by the protection of consumer rights is an important...

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### Measuring the Urgency of Draft Legislation on the Recognition and Protection of Indigenous People from Economic Analysis of Law Perspective

Anti Mayastuti, Jamal Wiwoho, Hari Purwadi

The purpose of this study is to determine the effectiveness of economic theory against law to measure the urgency of the Draft Legislation on the Recognition and Protection of Indigenous

People in developing Pancasila Economic Law System. This research is a doctrinal legal research by combining law as...

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### The Strengthening of Legal Politics Through Public Policy Control as a Prevention of Corruption in Economic Globalization Era



This study aimed (i) to find out the legal politics strengthening in the form of control toward public policy and (ii) to analyze the public policy control as a preventive attempt against corruption. Policies have been used as a "gate" to commit policy corruption. It is necessary to extend the definition...

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### The Discourse of Qanun Aceh Number 11 Year 2018 Concerning Sharia Financial Institutions in the Economic Approach

Luthfiah Trini Hastuti, Pujiyono, Burhanudin Harahap

This research purposes to discover about the economic point of view of the law in the Policy of Qanun Number 11 year 2018 concerning Sharia Financial Institutions in Aceh Province. This research is a prescriptive doctrinal law research. The approach used is a conceptual approach which is the researchers...

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### Diversion in the Settlement of Child Cases to Realize Restorative Justice in Richard A Posner's Theory View

Subekti, Hartiwiningsih, I Gusti Ayu Ketut Rachmi Handayani

This study aims to analyze the principles of diversion in view of Richard A Posner's theory of legal efficiency. The economic analysis of law approach is used to analyze diversion arrangements in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System in order to realize restorative justice....

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### Establishing Good Corporate Governance in Overcoming the Dualism of State Owned Enterprises Sectoral

Tuhana, Jamal Wiwoho, I Gusti Ayu Ketut Rachmi Handayani

This study was done to answers 2 (two) research problems: (i) why is it necessary to establish

good corporate governance in overcoming the sectoral dualism of BUMN/SOEs; and (ii) how the BUMN/SOEs based on good corporate governance are able to optimize the management of natural resources in a professional...

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### Reconstruction of the Pretrial Regulation in Code of Criminal Procedure in the Framework of Law Enforcement Reflecting Inclusive Law

Bambang Santoso, Hartiwiningsih, Muhammad Rustamaji

This study aims to examine the urgency of reconstructing pre-trial arrangements in the draft Criminal Procedure Code. The research is categorized as normative legal research. The sources of legal materials used are in the form of primary and secondary legal materials. Primary legal materials are in the...

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#### Proceedings Article

### Constructing Legal Politics of Primary Education with Pancasila Character

Fadhil Purnama Adi, I Gusti Ayu Rahmi Handayani, Hartiwiningsih

The objective of research is to construct legal politics of primary education in preparing the superior students with Pancasila character in order to answer the ever changing challenge of time. This study was a doctrinal legal research using deductive logic and interpretative (hermeneutic) analysis....

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#### Proceedings Article

### Strategy of Exclusive Dealing in Perspective the Law of Competition in Indonesia

Hernawan Hadi, Adi Sulistiyono, Albertus Sentot Sudarwanto

The purpose of this writing or research is to find out about the Closed Agreement, which is regulated in Article 15 of Law No. 5 Th, 1999, as an obstacle to fair competition that causes and causes a monopoly. The advantage that is one of his objectives on businesses, one of the strategies used by companies...

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## Criminal Law Enforcement of Money Laundering as a Community Protection Effort Against Economic Crime in Indonesia

Sri Wahyuningsih Yulianti, Jamal Wiwoho, Muhammad Rustamaji

In the era of globalization, science and technology advances have resulted in the emergence of global economic crimes or transnational crimes. One of the criminal acts in the economic field is money laundering, which is clearly an illegal act that has the potential to cause negative effects that can...

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## Limitation of Land Tax Regulations as an Instrument for Land Tenure Management

Andhyka Muchtar, Jamal Wiwoho, Lego Karjoko

This study aims to determine: (i) whether the regulation of Land Tax can work as an instrument for structuring land tenure (ii) to find out what prerequisites must be prepared by tax law so that it can work as an instrument for managing land tenure. This study used normative legal research methods. with...

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## Copyright Issues on the Prank Video on the Youtube

Nurul Hulwanita Sharfina, Hasbir Paserangi, Fitri Pratiwi Rasyid, Muhammad Ikram Nur Fuady

This study aims to examine copyright infringement that occurs in prank videos uploaded on YouTube social media. The next goal is to find out how the criteria for prank videos that can be said to violate copyright are categorized as cinematographic works. This research was conducted by taking data samples...

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## Mapping Stakeholder's Role in Community-Based Tourism Development on Hutan Bambu Alu in Polewali Mandar, Indonesia

Sitti Hadijah, Ritabulan, Nuraeni, Muhammad Rizky Prawira

Hutan Bambu Alu is a part of the watershed area which is maintained by the Alu community in Polewali Mandar, West Sulawesi. Hutan Bambu Alu has become one of the tourist destinations in West Sulawesi which was planned to be built with an ecotourism concept approach that is managed by the community to...

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## Implementation of Worker Rights Protection for Government Employees with Employment Agreements

Asianto Nugroho, Reza Octavia Kusumaningtyas, Ravi Danendra, Gusti Faza Aliya, Fatma Ulfatun Najicha

This research aims to analyze the protection of workers' rights for Government Employees with Employment Agreements (PPPK). The research method used is normative juridical research, which is a study that focuses on the study of literature in the form of reading, studying, and analyzing legal materials....

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## Regulation of Community Participation in Management Buffer Zone

Prijo Dwi Atmanto, I Gusti Ayu Ketut Rachmi Handayani, Hartiwiningsih, Lego Karjoko

This research examines the regulation of community participation in the management of buffer zones. The research method used is normative legal research with a conceptual approach. Research findings are that there are still many obstacles and obstacles in implementing the policy of community participation...

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COVID-19 Vaccination Services: Legal Issues and Protection for Health

## COVID-19 Vaccination Services: Legal Issues and Protection for Health Workers

Irzal Rakhmadhani, Erna Yulida, Fahrina, Abdul Kadir Jaelani

COVID-19 cases are on the rise, and strict health protocols haven't been able to keep up. COVID-19 vaccinations are required to slow the transmission of the virus in the community; lessen pain and death caused by the disease; accelerate herd immunity, and protect the community from COVID-19 during the...

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### Proceedings Article

## Corporate Criminal Sanctions in the Crime of Forest Destruction with a Restorative Justice Approach

Agus Suciptoroso, Andi Muhammad Sofyan, Winner Sitorus, Kahar Lahae

Forests are national treasures that must be protected by anyone without exception. Today many forests are reduced due to destruction by humans and corporations. This study examines the Corporate Criminal Sanctions in the Crime of Forest Destruction with a Restorative Justice Approach. The legal issues...

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## Testing the Flexibility of Pancasila as an Open Ideology in the Synergy of Designing the Law Enforcement Reform

Wahyu Beny Mukti Setiyawan, I Gusti Ayu Ketut Rachmi Handayani, Muhammad Rustamaji

The problem statements answered in this study are: (i) why synergy is needed in designing law enforcement reforms; and (ii) how are the parameters of the flexibility limit of Pancasila in

synergizing the design of law enforcement reforms. Nowadays, it is found that the implementation of law do not fit...

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### Proceedings Article

## Regulation of Land Use Rights After the Job Creation Act

Ummy Ghoriiyah, Elita Rahmi, Yetniwati

The extension of the term of the Land Use Rights (HGU) after the Job Creation Act which extended the tenure of HGU to 95 years created a conflict of norms with Law Number 5 of 1960 concerning the UUPA. The uncertainty of the time period will cause many problems regarding the extension of the HGU that...

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#### Proceedings Article

### Crime Prevention Policy Through Depriving Illicit Enrichment and Unexplained Wealth

Ermaida Ermaida, Sonata Lukman

Crimes with economic motives are very detrimental to the state and have implications for national development. The assets of crime are the “blood of evil” for the continuation of the crime itself. The existing law enforcement facilities in Indonesia are still actor-oriented conventional. Conventional...

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### The implementation of Land Consolidation in Planning of Urban Slum Area as Environmental Based Optimization of Urban Land Use and Utilization

Joko Suhendro, I Gusti Ayu Ketut Rachmi Handayani, Lego Karjoko

The 1945 Constitution specifically article 28 H and Law No. 32 of 2009 regarding Environmental Protection and Management mandate that every citizen has the constitutional right to live physically and mentally prosperous, to live, and to have a good and healthy environment and to receive health assistance....

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### Constitutional Development on Mineral and Coal Governance in Indonesia

Sinta Ana Pramita, I Gusti Ayu Ketut Rachmi Handayani, Lego Karjoko

This study aims to determine the constitutionality development on mineral and coal governance based on constitutions. Normative legal research with statutory and conceptual approach is carried out in this study. The findings are in line with mineral and coal

approaches is carried out in this study. The findings are in line with mineral and coal governance on Government Regulation (PP)...

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### Inhibiting Factors Inventorying and Mapping Potential Geographical Indications in Riau Province

Rian Saputra, Pujiyono, Sunny Ummul Firdaus

This study aims to obtain information on the factors that hinder the inventory and mapping of potential Geographical Indications as mandated by Article 70 Paragraph (2) letter e of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. This research is a non-doctrinal legal research...

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#### Proceedings Article

### Making the Administrative Law Enforcement in Indonesia Effective as an Effort to Prevent Violations Reclamation and Post-Mining Obligations (Study in East Kalimantan Province)

Muhammad Bagus Adi Wicaksono, I Gusti Ayu Ketut Rachmi Handayani, Lego Karjoko

This study has purpose to provide input and suggestions regarding the concept of an effective administrative law enforcement system to prevent violations of reclamation and post-mining obligations in East Kalimantan Province. This study was a non-doctrinal legal research that analyzes the effectiveness...

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### Globalization, Asymmetric War, and Increasing Number of International Refugees

Ayub Torry Satriyo Kusumo, Jamal Wiwoho, Emmy Latifah

Globalization has influenced all aspects of the human life, including the nature of armed conflict. It is sensed that there is a shifting in armed conflict which resulted in inapplicability of International Humanitarian Law (IHL) in the conflict. The delay in IHL application bring collateral impact to...

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## Problems and Challenges in the Employment Development during Covid-19 Pandemic in the Era of the Industrial Revolution 4.0 Case of East Java Province, Indonesia

Himawan Estu Bagijo, Hendrawan Dendy Santoso, Maria Dwi Susanti

The purpose of this study is to discuss the role of employment development carried out by the Department of Manpower and Transmigration of East Java Province to companies and workers affected by the Covid-19 Pandemic. The research used random sampling, involving 859 companies in East Java with a reported...

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## The Urgency of Regulating Fintech Peer to Peer Lending Sharia in Indonesia

Oti Handayani, Adi Sulistiyono, Yudho Taruno Muryanto

This reserch aims to analyze the urgency of Fintech Peer to Peer Lending (P2P Lending) Sharia law in Indonesian Muslim communities. This research is normative legal research that is authoritative and technical/applied. The research approach uses the law approach. The licensed material of this research...

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## A Dominant Position in Bussiness Partnership Agreement: How is Legalprotection for Less Dominant Entities?

Akadiyan Aliffia Husdanah, M. Djafar Saidi, Achmad Ruslan, Aminuddin Ilmar

A dominant position is a situation where a business actor does not have a significant competitor in the relevant market in relation to the market share controlled, or the business actor has the highest position among his competitors in the relevant market in terms of financial capability, ability to...

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## Legal Protection of the Environment in Indonesia from a Green Victimology Perspective

Rani Hendriana

The portrait of legal protection for the environment so far has not been oriented to the needs of the environment itself as a victim. As a result, the responsibility of perpetrators of environmental crimes has not been aimed at recovering the damage caused. This study aims to determine the legal protection...

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## The Utilization of E-Government Public Service for Improving Public Capability and Accessibility During the Covid-19 Pandemic

Rofi Wahanisa, Eko Mukminto, Ratih Damayanti, Dani Muhtada

One of the measures taken to combat the spread and infection of Covid-19 is the issuance of Government Regulation No. 1/2020, in which the Indonesian Government imposed large-scale social restriction (PSBB). The implementation involves closing public schools and workplaces, restricting religious activities,...

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## Dual Position of Regional Head and Political Party Chairman: Perspective on Digital Society Social Change in State Law

Seto Sanjoyo, Adi Sulistiyono, Agus Riwanto

The regional head becomes the chairman of a political party, which creates resistance in the monopoly of power. Political parties or a combination of political parties are a means to propose pairs of regional heads and deputy regional heads in the nomination. This study aims to determine the extent of...

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## Landslide Disaster Risk Strategy: Lesson Learned from the Community in the Northwest Part of Bromo Volcano Flank

Shofiyatul Azmi, Heni Masruroh, Indria Kristiawan, Umi Afdah

This research was conducted on the western flank of Mount Bromo, precisely on the upper slopes of Taji Village with a population of 1,286. Communities have intensively exploited land resources to meet their daily needs. Based on the physical condition, this area is rather not appropriate for living...

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## The Constitutional Court Decision on Societal Organization Law and Its Implication toward Freedom of Association of Traditional Beliefs Community in Indonesia

Andy Omara, Kristina Viri

In the past, freedom of association of the indigenous community in performing their traditional beliefs was not adequately protected. However, two constitutional court decisions in 2013 and 2016 provide significant protections for indigenous community in exercising such freedom. Unfortunately, there...

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## Synergy of Prosecutors, Police and Corruption Eradication Commission to Handle Corruption in the Frame of Integrated Criminal Justice System

Titin Herawati Utara, Supanto, Yudho Taruno Muryanto

The results show that efforts to recover assets are a difficult process, even under ideal circumstances, asset recovery efforts are complex and multidisciplinary processes, including differences in legal systems; banking secrecy system; unwillingness of developed countries to assist in asset recovery...

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## The Legal Protection for Breach of the Marriage Promise for Women

## THE LEGAL PROTECTION FOR BREACH OF THE MARRIAGE PROMISE FOR WOMEN

Juliana S. Ndolu, Adi Sulistiyono, Mohammad Jamin

Cases of men breaching their promise to marry women following extra marital pregnancies often occur in Indonesian society and can be detrimental for women and children. However, the majority of cases cannot be prosecuted under the current legal arrangement. This paper aims to first analyze the legal...

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## Sustainable Fisheries Principles in Fisheries Management Regulation in Indonesia

Sapriani, Jamal Wiwoho, I Gusti Ayu Ketut Rachmi Handayani

The purpose of this study is to determine the principles of sustainable fisheries in fisheries management regulations in Indonesia. This research is a doctrinal analysis that uses the method of literature study, with a statutory and conceptual approach. The results showed that the sustainable fisheries...

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## Permits for the Transfer of Agricultural Land Functions to Non-Agriculture in the Land Purchasing and Sale Process

Iswantoro, Abdul Kadir Jaelani, Resti Dian Luthviati, Muhammad Jihadul Hayat

The purpose of this research is to examine the process of purchasing and selling land that requires a permission to be converted from agricultural to non-agricultural use. This study employs secondary data to conduct normative legal research. According to the findings of the study, the process of purchasing...

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## In a Complete Systematic Land Registration Program, the Precautionary Principle is Used When Issuing Land Certificates

Lego Karjoko, I Gusti Ayu Ketut Rachmi Handayani, Abdul Kadir Jaelani, Rizal Palil

This study aims to determine whether the National Land Agency has applied the

precautionary principle to the Complete Systematic Land Registration program or not and to see the implications of land registration through the program. The proposed problem is whether BPN has applied the precautionary principle...

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Zaidah Nur Rosidah, I Gusti Ayu Ketut Rachmi Handayani, Yudho Taruno Muryanto

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Titik Prasetyowati Verdi, Jamal Wiwoho, I Gusti Ayu Ketut Rachmi Handayani

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### Construction of Ratio Decidendi: Constitutional Judges to Maintain the

## CONSTRUCTION OF RATIO DECIDENDI CONSTITUTIONAL JUDGES TO MAINTAIN THE AUTHORITY OF THE INDOONESIAN CONSTITUTION

Siti Marwiyah

In general, every judge who will make a judgement must be preceded by or formed around a number of factors. A Constitutional judge's arguments in deciding a case that has been brought before him is based on legal grounds. The "ratio decidendi" became a constructive means of constructing these legal considerations...

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Waluyo, Fatma Ulfatun Najicha, Abdul Kadir Jaelani

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Fatma Ulfatun Najicha

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Irzal Rakhmadhani, Erna Yulida, Fahrina, Abdul Kadir Jaelani

In order to overcome the COVID-19 pandemic, all countries throughout the world are prioritizing COVID-19 vaccination. Vaccination is the key to achieving herd immunity in society and reducing COVID-19-related morbidity and mortality. However, the COVID-19 vaccination process in Indonesia is running slowly...

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Diana Lukitasari, Hartiwiningsih, Jamal Wiwoho

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### Reconstruction of the Model Recovery of Violence Against Women Victims Fairly Through the Development of Restorative Justice in the Globalization Era

Gayatri Dyah Suprobowati, Hartiwiningsih, Muhammad Rustamaji

# Construction of Ratio Decidendi Constitutional Judges to Maintain the Authority of the Indonesian Constitution

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**Abstract**—In general, every judge who will make a judgement must be preceded by or formed around a number of factors. A Constitutional judge's arguments in deciding a case that has been brought before him is based on legal grounds. The "ratio decidendi" became a constructive means of constructing these legal considerations. Assume the constitutional judges' legal arguments are invalid and unsuitable. In that circumstance, the people seeking justice or the general public have the right to decide whether the decision is just or proper. If the constitutional judges are doing their jobs correctly, they should be appointed as guardians of the Indonesian constitution's privileges.

**Keywords**— Authority, Guard, Judge, Constitution, Justice, Interpretation.

## I. INTRODUCTION

Everyone want to reflect on the nature of his existence, the course of his life will be filled with many ordinary circumstances in which he might take pleasure. Humans, in theory, recognize that the nature of human life in state life necessitates a peaceful, peaceful, just, wealthy, prosperous, and happy existence. Furthermore, being in a legal state (rechtsstaat) ensures that all citizens are treated equally in the eyes of the law and the government. Justice, truth, morals, and the rule of law all become major considerations.[1]

When a judge makes a mistake, it's only natural for a bad judgment to be aimed at him, especially if he's a constitutional judge. According to Ni'matul Hudal, the arrest of Akil Mochtar sparked "political uproar" and "huge anguish" among those who hoped the Constitutional Court would oversee reform and the establishment of a democratic rule of law. People don't seem to believe that judges, even in the Constitutional Court, are untrustworthy and willing to sacrifice their dignity for a monetary gain.[2]

The executive, legislative, and judicial branches of the state of law, also known as rechtsstaats, are in charge of carrying out government power. Judicial authority is a body or entity charged with finding positive legal ways, which judges carry out through concrete investigations, assessments, and conclusions, as well as objectively resolving conflict problems in society in order to attain substantive justice.[3]

The judge's belief in resolving a case for the parties

should ideally reflect the nature of truth and fairness. When considering a matter, how superior is the construction of a Constitutional Court judge's conviction.

## II. RESEARCH METHOD

The type of research employed is normative juridical research. Legal research that examines library legal materials or secondary data is known as normative juridical research. A statutory approach, a conceptual approach, and a historical approach are all used in this study. The primary, secondary, and tertiary legal materials employed in this study are primary, secondary, and tertiary legal materials. The legal resources that were collected first are whittled down to determine their legal validity and usefulness for this writing material.[4]

Legislation and other legal materials that have been found to be legitimate and suitable are directly described in the form of an abstraction. In terms of the described legal material, it is then investigated to discover the type and availability of information in order to get information in the form of legal certainty and normative consequences. The qualitative descriptive analysis utilized to explain this research is based on the concepts of justice, legal certainty, and expediency, and takes into account philosophical, juridical, sociological, and other factors according to the underlying aspects.[5]

## III. FINDINGS AND DISCUSSION

It takes a lot of effort to go from terrible to good. Several cases put constitutional reform to the test, weakening the dignity of being found guilty and removed as an institution. Independence of the Supreme Court and the impartiality of constitutional justice serious instances based on the second Honorary Council Decision (MKMK) of the Constitution (MK) and constitutional judges began to be questioned, and negative attitudes emerged as the institution and its members became problematic. Of course, the Constitutional Court No.01/MKMK-SPL/II/2017 is inspired by the judge's decision or action.[6]

The case against Constitutional Justice Patrialis Akbar, who received bribes during the settlement of the case for testing the Animal Husbandry Law, was the focus of KPK's arrest operation (2017). The cases of Constitutional Justice Akil Mochtar and Constitutional Justice Patrialis Akbar include grave legal, ethical, and moral transgressions. This situation demonstrates that the institution that is the biological offspring of reform is not

immune to corruption (judicial corruption) by constitutional judges. considered to have broken the law, morals (morality), and ethics (ethics). The role of the judge, in particular, is associated with faith. There is no reason to pursue a career as a judge if one lacks faith or is readily doubted.[7]

Confidence is a true belief, certainty, stipulation, or conviction, or sure is a genuine belief, certainty, and stipulation in the language of "belief." While belief is defined as "certitude, conviction, and certainty" in English. According to Dudu Duswara, the term for belief in English is "conviction." Conviction can have a variety of meanings. The first is defined as a position, such as "He is a guy of strong conviction" (he is someone who is convinced), whereas the second is defined as "belief and certainty." For instance, "His words carry conviction" (his words carry conviction), and "Judgment" is the third definition. "His belief is certain," for example.[8]

According to TM. Hasbi Assiddieqie, belief is something that is identified based on an investigation or argument, and something that has been convinced that it will not vanish unless another believe appears. According to Olsen and his colleagues, belief is a distinct thought about numerous parts of life that the owner believes to be true, despite the development of various facts that contradict the owner's view. Human belief in the existence of ghosts, for example, is a type of belief; additional examples can be found in society.[9]

According to Ahmad Hamdan, belief is also synonymous with law, which evolves or undergoes a dynamic process in society. The maximal activity or performance that a person engages in influences how convinced they are of something. Confidence evolves in tandem with a societally validated worldview, which varies from one group to the next. A society that evolved from the era of slavery or the installation of segregation policies in the United States, for example, will believe that black people will always feel inferior to white people. People who hold a patriarchal worldview believe that men have benefits or are superior to women in the public realm. This resulted in the domestication of women's roles and position in the workplace and in the realm of power.[10]

Some argue that belief systems are the foundation of inter-relationships of beliefs from various beliefs related to various social conditions or types of activities; others argue that belief systems are the basis of inter-relationships of beliefs from various beliefs related to various social conditions or types of activities. As a result, belief systems are more complex than the specific ideas they contain. Even though a belief system may include many internal inconsistencies, specific beliefs that are part of it tend to create a unified whole.[11]

Assume that one of the black colors on the chessboard represents the worldview, and that the belief system represents the frame or framework required by that belief. Humans normally act logically to accept the beliefs and belief systems that arise, therefore society as a collection of humans frequently consists of a chaotic cross of belief systems that are accepted by parts of the community,

some alter or even reject them as a whole.[12]

The judge's function or obligation in making decisions in each case before him, determining legal occurrences, legal relations, the legal value of behavior, and the legal positions of the parties engaged in the case in order to resolve a dispute or conflict. The judge must always be impartial and free from the influence of any side, especially while issuing a decision, based on applicable law. All philosophical, legal, and sociological components of the judge's judgment must be examined in order for the justice to be realized and accounted for in the judge's decision is justice oriented to legal justice, social justice, and moral justice.[13]

Furthermore, it must be understood that the dispute over judges' obligations as law enforcers by observing the law against their duty as justice enforcers even if they must depart from the law's provisions is an old one. There is no longer a distinction between the civil law tradition, in which judges serve merely as mouthpieces for the law, and the common law tradition, in which judges serve as legal justice makers even if they must break the law. Both are seen as complementary requirements. These two things are placed in an equal strong position in Indonesia's modified constitution. According to Article 24, paragraph 1, judicial power is an autonomous power to administer justice in order to enforce "law" and "justice." Everyone has the right to recognition, guarantee, protection, and "reasonable legal certainty," according to Article 28D, paragraph 1. As a result, the emphasis is not only on legal clarity, but also on legal certainty that is fair.[14]

This commitment to pursue substantial justice is not only supported by the 1945 Constitution, but also by Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court, which serves as a defender of the constitution, democracy, and law. "The Constitutional Court evaluates matters based on the 1945 Constitution of the Republic of Indonesia in accordance with the facts and the judge's conviction," says paragraph 1 of Article 45. The evidence and the judge's belief must be the basis for the decision to uphold substantive justice, according to this article, especially if the litigating parties expressly want *ex aequo et bono* (fair decisions).[15]

Every choice is taken "For Justice Based on the One Godhead," not "For Legal Certainty Based on the Law," as it is typically emphasized. This is the foundation that allows judges to make decisions that uphold justice even when they are obliged to break the law's formal requirements that obstruct justice. In considering a case, judges should weigh both legal and philosophical truths. Judges must make just and sensible rulings by taking into account the legal implications and societal consequences of their decisions. Legal certainty emphasizes that laws and regulations are implemented according to the philosophy adopted by the sound of the law (regulations). The law enforcement adage "Fiat Justitia et perat mundung Rauat Coullum" (even if the sky falls, the law must still be enforced) and the sociological value place a premium on the community's advantages from judges' rulings.[16]

In a normal situation, the Court serves as a venue for obtaining justice. The name "Court" and the orders of the judges' decisions, which are the carriage's doors, represent this. Judges do not resolve issues "for the purpose of the law" or "for the sake of the law," but "for the sake of justice based on the One Godhead," according to these orders. This indicates that the judge is morally responsible to God Almighty for his choices, and that the judge's job is to uphold truth and justice.[17]

Facts demonstrate that not all judges are aware that their judgements would be held accountable before God Almighty in this world. Although it is difficult to quantify how a judge's decision satisfies one's sense of justice statistically, there are signs or factors that can be utilized to perceive and feel if the judgement satisfies one's sense of justice or not. This indicator can be found in a judge's "legal considerations." The judge's reasoning in deciding a case is based on legal issues. The term "ratio decidendi" becomes quite useful in this context. People or society can determine that the decision is not factual or unfair if the legal rationale is false and improper.[18]

In judging the case, the judge will rely on his personal beliefs. Judges must be based on the values of truth and justice in order to give not only legal clarity, but also justice and expediency, in accordance with this concept. According to Cross, ratio decidendi is "a rule of law openly or implicitly treated by the judge as a necessary step in arriving at his conclusion, having respect to the line of reasoning selected by him (or as a required portion of an instruction to a jury)." Ratio decidendi is a rule of law that is explicitly or implicitly implemented by the judge as a decisive stage in reaching his decision, taking into account the reasoning contained therein, or as an important part of the jury's direction), with a logical, methodical, and systematic approach, so that the judge's decision can be accepted by the community.[8]

The irony is that the Court's decisions are moving away from using the parameters of legal objectives, such as legal certainty, expediency, and justice. The inclination for parties to falsify facts in order to further their own interests can also inspire judges to take sides with one party, resulting in verdicts that lack a sense of justice. This can be evident in the judge's decision factors. Improper legal considerations can occur for a variety of reasons, including the judge's lack of legal understanding concerning the issue at hand, the judge's purposeful use of false or improper legal reasoning, and other factors such as pressure from particular parties, bribes, and other factors. Another factor affecting the judge's independence is that the judge does not have enough time to write down all good legal arguments because there are too many cases to resolve in too little time, and the judge is too lazy to increase his knowledge and insight, lowering the quality of the decisions he makes. Although this is an indirect aspect, it is adequate to establish the decision's quality.[19]

When making a decision in a case, the judge must weigh both the legal and philosophical truths (justice). Judges must make just and sensible rulings by taking into account the legal implications and societal consequences

of their decisions. "The Constitutional Court decides cases based on the 1945 Constitution of the Republic of Indonesia, in accordance with the evidence and the judge's conviction," according to Article 45 paragraph 1 of Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court. Furthermore, it is stated in the explanation of article 45 (1) that "judge's conviction" refers to the judge's belief based on facts.[20]

Constitutional judges are State Officials who are authorized to receive, examine, adjudicate, and decide cases based on the principles of freedom, honesty, and impartiality, according to Article 5 of Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court. The Republic of Indonesia's Unitary State is a legal entity founded on Pancasila and the Republic of Indonesia's 1945 Constitution, with the goal of creating an ordered, clean, prosperous, and just society for the nation and state. As a result, constitutional judges must have unblemished character, be fair, and possess the spirit of a statesman in order to supervise the constitution and state administration. So, in accordance with the judge's beliefs, the judge should have freedom of movement, integrity, broad horizons of view, and motivation in making decisions, all of which are guided by the philosophy employed, so that judges' decisions are fair, authoritative, and in favor of truth values can be realized.[21]

The application of a legal norm necessitates the movement of law enforcement officials. Without humans as law enforcement officers, the law will not function in accordance with its intended purpose. As a result, the success of law enforcement is not solely dependent on the legislation, but also on the presence of law enforcement officials as human people who enforce it. Whether law enforcement is excellent or poor is reflected in the behavior of law enforcement officers themselves. Law enforcement officers must not only be able to actualize the law from its abstract to concrete positioning, but also be professional and proportional based on wisdom. If the law exists as an instrument that produces benefits, it will be viewed as a state product that ensures the protection of the community's interests, including the interests of sustaining the people's sovereignty. If law enforcement agents operate at their best while dealing with various case findings or legal cases, the presence of the law will be able to bring great benefits to the community or justice seekers.[22]

Although each side is certain that the case he has filed in the Constitutional Court will be successful, the applicant's and respondent's beliefs are not always in line with the constitutional judge's decision. Constitutional judges with the right to freedom protected by statutory laws have the authority to rule differently, which is not the same as what the applicant and respondent believe. This can be catastrophic if the moral aspect is removed from the judge's performance, despite the fact that some perspectives do not accept it, implying that law and morals have no link and are different things in the positivist perspective. Even their link (constitutional

morality and the rule of law) is more or less an abstract commitment in the game's rules.[23]

The conviction of constitutional judges serves as the foundation for evidence-based judgements, with the judge's stance as an object being reasoned with the "ratio decidendi". During the trial, each party who presents evidence proves the other so that the judge can determine whether quality of evidence can persuade or affect the judge's belief, regardless of whether the evidence is presented by the applicant or the respondent. According to Yoedi, in believing, three aspects must be considered: aspects of comprehension, aspects of desire (for practice), and aspects of feelings. The factor of understanding implies that humans must first comprehend what we think, then apply it, and last examine their sentiments. whether you're happy or not Of course, what should happen is that humans achieve happiness; otherwise, humans must examine whether the two prior parts are true.[3]

"Judicial power is an independent power to administer justice to uphold law and justice," according to Article 24 paragraph (1) of the Republic of Indonesia's 1945 Constitution, and "everyone has the right to recognition, guarantees, protection, and fair legal certainty and equal treatment before the law," according to Article 28D paragraph (1) of the 1945 Constitution. "The Constitutional Court decides matters based on the 1945 Constitution of the Republic of Indonesia, in accordance with the facts and the judge's conviction," according to the Constitution.[24]

In the instance of judicial review, for example, legal rules that are abstract and binding on the general public are being examined. Although the petition for review claims that the applicant's constitutional rights have been violated, this action really serves the legal interests of the entire community, namely the preservation of the constitution. The legislators, the DPR, and the President are not the defendant or respondent who must be held accountable for their errors. The lawmaker is merely a related party who offers background and purpose information about the provisions of the law under consideration. It is intended that the provisions under consideration be read not only according to the applicant's or the Constitutional Court's viewpoints, but also according to the lawmakers', in order to obtain a legal conviction as to whether or not they are in violation of the constitution.[25]

As a result, not only do those who are obligated and must implement the Constitutional Court's decision have to make legislation, but so do all parties involved in the provisions made by constitutional judges. The Constitutional Court is one of the judicial powers other than the Supreme Court that has been outlined or determined by the Constitution. The Constitutional Court is responsible for independently and impartially upholding the constitution and protecting citizens' constitutional rights. The Constitutional Court has written a new chapter in the history of state institutions' equitable and balanced relationships.[26]

The Constitutional Court's principal technique of

safeguarding the constitution is to hear and rule on judicial review applications in which the applicant's legislative product contains faults in norms or is unconstitutional, according to him. If the constitutional judge's ruling is right, the favorable impact on the judiciary, at least on the Constitutional Court, will be preserved.[27]

#### IV. CONCLUSION

The right to justice is one of the most basic human necessities. Justice will be felt and seen through the legal construction made by the judge by assessing each piece of evidence provided at the trial one by one in order to arrive at confidence in making or formulating the ground for consideration before the verdict is handed down. This demonstrates that constitutional judges' convictions cannot be divorced from the dimensions of the judges' own choices based on the usage of "ratio decidendi." However, this does not imply that courts are allowed to disregard or disregard the law's provisions. Even if the legislation has been explicitly controlled and judged fair, the judge must nonetheless follow the law. Meanwhile, what I'd like to underline here is the notion that, under Indonesia's constitutional system, judges are permitted to make decisions that are based on justice, because it is only through justice that the constitution's authority can be properly preserved.

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