

INDONESIA LRWD Law Reform Weekly Digest

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REVIEW NEEDED FOR PUBLIC OFFICIALS SELECTION IN PARLIAMENT

8 new Chief Justice has been selected through fit and proper tests held by Commission III of the House of Representatives (DPR) on Thursday (23/1/2013). They choose 8 candidates from 24 hopefuls; consists of selected candidates are: Hamdi (54 votes); M Syarifuddin (54 votes), I Gusti Agung Sumanatha (52 votes); Irfan Fachruddin (48 votes); Margono (47 votes); Burhan Dahlan (43 votes); Desnayeti (25 votes); Yakup Ginter (23 votes).



Photos: www.sxc.hu

The fit and proper test for Supreme Court justices have went a tremendous length by the selection committee from the Judicial Commission. To mention stages of the process; there are administrative selection, documents to fill, collecting public input to fit and proper tests in the Commission III open to the public. Despite the openness; but under conditions of transactional politics today, public officials selection through political process are somehow consider a dubious one; especially for selecting Supreme Court judges. The process needs to be reviewed so political institution not partaking a too decisive role.

DIFFICULT TIMES LAYS AHEAD FOR CONSUMERS COMPLAINT

It is not easy for consumers in Indonesia who write complaint letter. Instead of getting a positive response, such complaint may lead to a punishment. At least it is the case for Khoe Seng Seng, a businessman who wrote a complaint letter in newspaper addressing a prominent real estate developer; sentenced by Supreme Court to pay damages of 1 Billion rupiahs to the plaintiff. The case was originated from Seng's dissatisfaction over the obscurity of the land legal-status of ITC Mangga Dua Jakarta, a trading center where Seng has unit of shop-house. Seng sent the letters expressing his dissatisfaction to two nationwide newspapers.

Instead of getting a response from PT Duta Pertiwi, the developer of ITC Mangga Dua, through the same newspapers, he was reported to the police and sued to the court. In the criminal case, Seng was sentenced to 6 months imprisonment. Meanwhile, in tort claims, at First-Tier Court, Seng was sentenced to pay damages of 1 Billion rupiahs. At the Appellate Court, Seng won. But finally, at the Supreme Court, Seng was sentenced again to pay damages of 1 Billion rupiahs. From our point of view, legal proceedings against Seng are considered to be a bad precedent for consumer protection in Indonesia.

THE GARUT REGENT; AN ILL JUDGMENT FROM STATE APPARATUS TO THE STATE AND LAW

The Supreme Court finally issued a decision on the petition from the Garut Legislative Council to impeach the Garut Regent, Aceng Fikri. In accordance to the provisions of Article 29 paragraph (4) Law no. 32/2004 on Local Government, the next step after Supreme Court is the Plenary Session of the Garut local parliament to pass the recommendation to the President. However, the Garut Regent still wanted to fight back the Supreme Court decision; he threatened mobilize his supporters to back him up. Aceng Fikri also sued the Supreme Court and the central government despite the notion of Law no. 32/2004 all parties should obey Supreme Court decision accordingly. Aceng Fikri's reaction upon the Supreme Court decision is a violation against article 27 paragraph (1) e and f Local Government Act stipulates the head of the region have an obligation to obey and enforce all laws and regulations and to maintain ethics and norms in local governance. Garut parliament should immediately process the impeachment of Aceng Fikri in accordance with the procedure regulated in Law no.32/2004 as an example for his constituents.

PENALTY SANCTIONS IN RELATION TO RUPIAH REDENOMINATION

Bank Indonesia and Government intensively socialize their rupiah redenomination to public. Socialization is one sub program of rupiah redenomination program that has been carefully carried out since 2011. Referring to www.redenominasirupiah.com, this program will be lasted in 2022. Program of rupiah redenomination consists of 4 stages including socialization (2011-2012); transition period (2013-2015), withdrawal of the old nominal of rupiah (2016-2018), and issuance of new nominal of rupiah (2019-2022). Through this program, the number of last three zeros in rupiah currency will be cut or eliminated (for example, IDR 1,000 will become IDR 1 and IDR 50,000 will become IDR 50).

In terms of legal reform, there is one particular issue that should be addressed correctly; on the

amount of money set as penalty sanctions in numerous various regulations. Given the philosophy of legal positivism adopted by Indonesia, it is necessary to adjust nominal of penalty sanctions with rupiah redenomination process. A requirement of two legal umbrellas should be considered necessary; *first*, adjustment provisions of penalty sanctions should be inserted into the Bill on Rupiah Redenomination. This bill will be submitted to parliament soon; and *second*, through the issuance of Supreme Court regulation. In 2012, the Supreme Court issued Regulation No. 2/2012 dated 27th February 27 on Adjustments of Infringement and Penalty Sanctions in the Criminal Code (KUHP). Given the fact that criminal sanctions are imposed by court, the Supreme Court should issue a new regulation that adjusts all penalty sanctions with new nominal of rupiah.



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