RECUSAL AND THE CONSTITUTIONAL RIGHTS OF JUSTICE SEEKERS

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ABSTRACT

This article will search the relationship of the recusal at the Indonesian Constitutional Court and the fulfillment of the constitutional rights of justice seekers in Indonesia. I found that justice seekers need clear regulation of the recusal submission against one or more constitutional judges and still considering the quorum of the judge. Then one of the constitutional rights of justice seekers to obtain justice is fulfilled, in which cases that are brought forward in the trial are examined, tried and decided by a panel of judges who have undoubted independence and impartiality. It is very important because one of the obligations of constitutional judges is to protect rights and liberties and protect the constitutional rights of justice seekers in obtaining justice.

Keyword: Recusal, Indonesian Constitutional Court, Justice Seekers.

INTRODUCTION

Background

The essence of the court is justice itself. "Justice is to treat adequately, fairly, or with full appreciation."[1] Justice should be enforced based on the law and the conscience of the judge.[2] This raises a normative reference for judges to produce, implement, and enforce the correct law, in which these conditions present the main characters of the law, namely the law (rules) that are in law (*het recht moet rechtdoen aan de mens*) and humanizing human beings.[3] And if the parties who are litigants do not get these two things, it is appropriate that the litigant parties can use alternative solutions.

Recusal embodiment [4] to be realized when the litigant parties get a judge's decision that is not in favor of justice. Judges' decisions that have not applied the material and formal law correctly certainly lead to denial of the protection, respect, and fulfilment of the human rights of the litigant parties.

Judges' decisions that argue are worthy of legitimacy. Even so, the argument that was built by the judge in a legal decision consisted of several elements or consisted of various parts decisions (*deelbeslissingen*) with arguments or premises that supported the decision that not all epistemologically had the same character, could be several which is true (evident), acceptable, and convincing, but in some others it is only plausible and convincing to certain parties.[5]

In emphasizing the matter of law enforcement in a state of law and democracy, it is like discussing the soul or spirit that makes it more alive. Bagir Manan stated that law enforcement

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[1]Read ***The New Oxford Thesaurus of English***, (Kettering: Oxford University Press, 2000), p. 537. *Justice: fairness, justness, fair play, fair-mindednes, equity, equiableness, impartiality, impartialness, lack of bias, objectivity, neutrality, lack of prejudice, honour, integrity.*

[2] Amzulian Rifa'i, Suparman Marzuki, dan Andrey Sujatmoko, ***Wajah-wajah Hakim dalam Putusan – Studi Atas Putusan Hakim Berdimensi Hak Asasi Manusia***, (Yogyakarta: PUSHAM UII), p. 57.

[3] Oeripan Notohamidjoyo, ***Existentialisme dan Hukum*** as quoted by Muhamad Erwin and Amrullah Arpan, ***Filsafat Hukum Mencari Hakikat Hukum***, (Palembang: UNSRI, 2008), p. 271.

[4] Recusal is interpreted by the author as a right of refusal against the judge. Where in accordance with the positive law of Indonesia, the judge breaks the rules set out in Article 17 paragraph (1) of Law 48/2009 concerning Judicial Power that the party being tried has a right of refusal against the judge who hears the case. Then Article 17 paragraph (2) is declared a denial right as referred to in paragraph (1) is the right of someone who is tried to file an objection accompanied by a reason against a judge who hears the case.

[5] https://cakimppcii.wordpress.com/2013/08/31/logika-hukum/ accesed on Friday,17 April 2015..

is a real pattern of the application of the law in a society that is so influential on legal feelings, legal satisfaction and the need or legal justice of litigants.

With such an understanding, the litigant parties have the rights that must be fulfilled by the state in this case by the judiciary, including recusal, so that it is the right of the litigant parties to refuse to be examined and tried by judges or other judges because certain reasons, including reasons such as a judge having to resign from a trial if he is bound by a blood family relationship, the judge must resign from the trial if he is bound by a family relationship, a judge or clerk must resign from the trial if he has a direct interest or indirectly with the case being examined, at the level of appeal or review on the grounds that the Chief Justice concerned at the time of holding another position, and there is no guarantee of obtaining justice because it is known that the judge concerned will not hold to the principles of impartiality, fairness and good principle judiciary (*behoorlijk rechtspraak*).[6]

Violation of the above elements gives legal implications for the decision, where the decision does not heed the objection submitted by the litigant parties then the decision is declared invalid and the judge or clerk concerned is subject to administrative sanctions or convicted in accordance with the provisions of the law invitation,[7] then the case was reviewed again with a different panel of judges.[8] The condition does not heed the objections of the litigant parties giving a new problem that this judicial institution has carried out contempt of court.

Problem Formulation

How does the relationship of the recusal embodiment become the fulfillment of the constitutional rights of justice seekers?

[6] Bagir Manan, ***Kekuasaan Kehakiman Indonesia – Dalam UU NO. 4 TAHUN 2004***, Cet. 1., (Yogyakarta: FH UII Press, 2007), p. 247-248.

[7] Read Article 17 paragraph (6) of Law Number 48 of 2009 concerning Judicial Power that in the event of a violation of the provisions referred to in paragraph (5), the decision shall be declared invalid and the judge or clerk concerned shall be liable to administrative sanctions or be punished according to provisions of applicable laws and regulations.

[8] *Ibid*, paragraph (7). Article 17 paragraph (7), namely the case as referred to in paragraph (5) and (6) is re-examined with a different panel of judges.

Research Methods

This research is a normative legal research that uses the method of collecting legal material such as literature study or documentary study. Legal materials used are primary legal materials, among others, a set of laws and regulations starting from the 1945 Constitution, the Act, the Constitutional Court Decision, Government Regulations and other legislation. Meanwhile, secondary legal materials include handbooks, legal magazines, legal journals, newspapers, and scientific works.

Whereas the research method used in this research is normative legal research namely research that doctrinally examines the basis of rules and legislation concerning the effort to materialize the content material in the formation of a law by the DPR with the President's mutual agreement, both vertically and horizontally, systematically and principles in the formation of a law. Secondary data obtained through legal materials and analyzed by qualitative analysis that produces a descriptive-analytical data.

RESULTS AND DISCUSSION[9]

Fulfillment of the Constitutional Rights of Justice Seekers in the Realization of the Recusal to Obtain Justice

The concept of fulfilling the constitutional rights of justice seekers in realizing the recusal needs to pay attention and also see the fair trial for all. The right to a fair trial is a norm in international human rights law designed to protect individuals from unauthorized and arbitrary restrictions or deprivation of constitutional rights and other freedoms.[10] The importance of the right to a fair trial is explained not only by the extent of the interpretation that is the consequence but also by a proposal to include it in the category of rights that cannot be reduced in meaning (non-derogable rights)

[9] This paper supervised by Luthfi Widagdo Eddyono, a researcher at Indonesian Constitutioanal Court.

[10] Munir, Ed., ***Fair Trial Prinsip-prinsip Peradilan yang Adil dan Tidak Memihak (Seri Revisi KUHAP)***, (Jakarta: Yayasan Lembaga Bantuan Hukum Indonesia/YLBHI, 1997), hlm. 1.

Therefore, it is necessary to see restrictions in the form of the scope of a fair trial (fair and impartial judiciary), among which are: [11]

1. the right to equality before the court and access to the court;
2. the right to a transparent court;
3. the right to independence, competence, and impartiality of the court;[12]
4. the right to the presumption of innocence;
5. the right not to postpone the trial;
6. the right to be notified of allegations/charges/claims quickly in a language that is clear and understood by the defendant/suspect;
7. the right to have adequate time and facilities to prepare a defense and communicate with legal counsel;
8. the right to get help from an interpreter;
9. the right to attend the court, the right to defend independently in court, the right to determine a legal counsel, the right to be consulted in obtaining legal counsel, the right to obtain legal assistance free of charge for defendants/suspects who are not able to use the services of legal counsel and if the interests of justice allow;
10. the right to test witnesses who incriminate the accused / suspect, the right to present witnesses before the trial;[13]
11. right to file legal remedies;

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[11] DJ Ravindaran, ***Human Rights Praxis: A Resources Book for Study, Action and Reflection*** (Bangkok: Forum Asia, 1998), p. 102.
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This scope is based on the International Covenant on Civil Rights as set forth in Article 14 and the European Convention on Human Rights contained in Article 6 and the American Convention on Human Rights (San Jose Pact) contained in Article 8. As quoted by Uli Parulian Sihombing, ***Hak atas Peradilan yang Adil Menurut Yurisprudensi Pengadilan HAM Eropa Komite HAM PBB dan Pengadilan HAM Inter-Amerika***, (Jakarta: The Indonesian Legal Resource Center (ILRC), 2008), p. 2.

[12] Investigating the right to independence, competence and impartiality of the court, there is a more detailed explanation explained by Article 8 concerning the American Convention on Human Rights (San Jose Pact) with Article 14 of the Civil Rights Covenant and Article 6 of the European Convention on Human Rights, not intended for criminal cases and civil law, but also for labor, fiscal, and other matters that have character related to independence, competence and impartiality of the court. Even Article 25 of the American Convention on Human Rights (San Jose Pact) explains that everyone has the right to simple, fast and effective access to the court to seek protection for violations of fundamental rights recognized both in the constitution and other national laws. see Uli Parulian Sihombing, ***op. cit***, p. 3-4.

[13] There is a difference between Article 14 of the Civil Rights Covenant and Article 6 of the European Convention on Human Rights, in which the European Convention on Human Rights does not regulate equality of arms (the right to propose an alleviating witness, which is to balance witnesses who incriminate the defendant / defendant filed by prosecutors) . While Article 14 of the Civil Rights Covenant explicitly regulates equality of arms.

12. right to compensation from court error; and
13. The right not to testify against him.

The right to a fair trial should be obtained by justice seekers who are in dispute. But not infrequently, to get a fair trial since applying, it is not uncommon for the parties to the dispute to have received injustice from the start. Where the core idea of justice is[14] the elimination of arbitrariness that results in injustice? Injustice obtained by justice seekers is between getting a judge who seems to have played a role by pointing out unfair behavior and tend to side with other parties or from the beginning showing behaviors that do not like the party who submitted the application or the substance of the request.

Whereas Marcus Tullius Cicero formulated the correlation that between law and the judge have a close relationship that the law is a silent judge, while the judge is the law that speaks. In the history of civilization, humans expect a mutualistic symbiosis between the institutions of judges and legal institutions to achieve justice, but in reality, often experience paradoxes. This shows that justice is an increasingly absurd matter to be achieved as a utopian perfect goal.

Judges who are government officials are representatives of the state (even God's representatives in the world), while the law should be the benchmark of the country. Because of that the judge who arbitrarily declared the law incorrectly in the decision, which even started from the beginning of the trial by not giving the right to a fair trial would injure the justice of the justice seeker who would cause the state to become sovereign. As a law enforcer, the judge has the main task in the judicial field, namely to receive, examine, and decide on every case filed. With such a task, the position of the judge is the core executive who functions to carry out the judicial authority. Justice seekers of course really want cases that are brought to court can be decided by professional judges who have no direct or indirect interests and have high moral integrity

[14] Morris Ginsberg, ***Keadilan dalam Masyarakat***, Cet. I., (Yogyakarta: Pondok Edukasi, 2003), p.53. Historically there is one kind of abuse that has become the greatest interest in the struggle against injustice. This is the arbitrariness of power, one's strength over others, whether it is used directly on someone or not directly through a power. Therefore, justice is mainly concerned with the control of attacks and domination made possible by the nature of inequality or by inequalities produced by institutions. As Mill said: "the case that is considered the most unfair is the mistake of attack and the mistreatment of power against someone. The most obvious way to guarantee this is to entrust the imposition of power to a legitimate authority-state c.q. judge - and to prohibit its use by individuals.

so that they can produce decisions which not only contains legal justice but also contains moral justice and social justice.

But not infrequently, the fact is often found that justice seekers feel dissatisfied and disappointed with the performance of judges who are considered not to be independent and unprofessional. The many interventions and external pressure on judges seen from the external side or intervention and pressure from the judge's own personal views from the internal side, sometimes makes the judge's performance no longer optimal or chooses opportunism.

In addition, the way of law that has happened so far, the fact tends to be in formalism.[15] In formalism, the texts of the norms of legislation are like cults. Whereas social life moves and laws that depend on existing texts tend to be left behind. As a result, a fundamental problem arises from the application of legal formalization so that justice seekers naturally fail to find their hopes.

The conditions above were reinforced by Francois Geny,[16] a French philosopher. On *Methode D'interpretation et Sources en Droit Prive Positive,*[17] according to him, the Law has never been perfect because the Law has never been able to holistically bring out the integrity of reality that exists in social life. Therefore, in a settlement of a legal case, it cannot only be seen from the literal construction of the law [18] but also must rely on a comprehensive understanding of both the strength of the spirit of the Law and the context of the law in question.

In another discussion that supports this method, Geny argues that judges must have creative and concrete actions by not only highlighting the law. The thing that is used by the court in this

[15]Artidjo Alkostar, ***Relevansi Hukum Progresif dalam Reformasi Hukum dan Peradilan*** on Myrna A. Safitri, Awaludin Marwan, and Yance Arizona (Ed.), ***Satjipto Rahardjo dan Hukum Progresif – Urgensi dan Kritik***, First Edition, (Jakarta: Epistema Institute dan HUMA-Jakarta, 2011), p. 215.

[16] Bernard L. Tanya, Yoan Simanjuntak, and Markus Y. Hage, ***Teori Hukum – Strategi Tertib Manusia Lintas Ruang dan Generasi***, Cet. III., (Yogyakarta: Genta Publishing, 2010), p. 199-200.

[17] In his theory, Geny criticized the interpretation of rationalism in the eighteenth and nineteenth centuries that was too formal deductive. The method of rationalism, according to Geny, saw from a false assumption, because they believed that the Law was perfect.

[18] In interpreting the law, it is not possible if it only uses the literal meaning of the Law as intended by the teaching of *begriffjurisprudenz*, nor does it have to exceed the flow of context as recommended by the teachings of *freirechtslehre*. Appropriate legal interpretation is the use of a combination of legal spirit and proportional case context.

concrete and creative action, according to Geny, is the *libre recherché scientifique* which is based on principles, namely autonomy of will, public interest, and balance of interests.[19]

Another approach that is consistent with Geny-style interpretation methods was raised by Carlos Cossio, a philosopher from Argentina. Cossio tried to combine Neo Kantian thinking from Hans Kelsen with Martin Heidegger's phenomenology and existentialism.[20] According to him, in principle the court's decision consists of 3 (three) main elements, namely,[21] first, logical structures derived from a clear regulatory framework; second, the unity of the contents of a situation caused by a special situation; and third, juridical assessment pinned by the judge on the two previous elements in an unusual situation.

Therefore, according to the Argentine philosopher, in dealing with the rule of law, a judge must use conscience like a human being, not a mere machine. In its relationship as a human being, judges are required to be able to make decisions in accordance with the principles of justice and the public interest. If there are no specific norms governing it, judges must try to follow legal principles or basic norms that are considered fair to arrive at conditions based on the conception of justice.

Re-emphasizing the right to a fair trial needs to be strengthened in the implementation of law enforcement that is built from the structure of law enforcement, the substance of law enforcement and the culture of law enforcement.[22] Regarding the structure of law enforcement can be shown by Lawrence M. Friedman with,

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[19] Bernard L. Tanya, Yoan Simanjuntak, and Markus Y. Hage, ***Teori Hukum – ibid***.

[20] Martin Heidegger was a German philosopher, who was a student of Edmund Husserl (originator of phenomenology) from the University of Freiburg. Existentialism is better known as a form of philosophical style, the main point of which is the teaching of humans and the way they are organized among other beings.

[21] Bernard L. Tanya, Yoan Simanjuntak, and Markus Y. Hage, ***Teori Hukum – ibid***., p. 201.

[22] Shidarta, ***Hukum Penalaran dan Penalaran Hukum,*** Cet. I., (Yogyakarta: Genta Publishing, 2013), p 144. Regarding the structure, substance and legal culture of Friedman, it has a view that is similar to Kees Schuit's view, namely the existence of elements that embody a legal system:
a. An idiotic element, this element is formed by a system of meaning from the law which consists of rules, rules, and principles. This element is what legal experts call the substance of law;
b. The operational element, this element consists of all organizations and institutions, which are established in a system. Included in it are also duty bearers (ambtsdrager), who function within the framework of the organization. This element is what the legal experts equate with the legal structure;
c. The actual element, this element is the overall decisions and concrete actions relating to the system of meaning of the law, both from the position of the official and the citizens, in which there is a legal system.

> *"... its skeleton of the framework, the durable part, which gives a kind of shape and definition to the whole ... the structure of a legal system consists of elements of this kind; the number and size of courts; their jurisdiction (that is, what kind of cases they hear, and how and why); and modes of appeal from one court to another. The structure also means how the legislature is organized, how many members ..., what a president can (legally) do or not do, what procedures the police department follows, and so on. Structure, in a way, is a kind of cross-section of the legal system kind of still photograph, which freezes the action."*[23]

Meanwhile, when viewed from the substance of law enforcement, namely "*… the actual rules, norms, and behavior patterns of people inside the system*."[24] And in the third phase, namely the legal culture, Friedman stated,

> *"... people's attitudes toward law and legal system their belief, values, idea, and expectations. ... The legal culture, in other words, is the climate of social thought and social force which determines how the law is used, avoided or abused. Without legal culture, the legal system is inert a dead fish lying in a basket, not a living fish swimming in its sea."*[25]

This legal culture is also given the same restrictions as legal awareness, where J.J. von Schmid [26] give serious attention by distinguishing between legal awareness and feeling. Therefore, the feeling of law is the result of the subjective assessment of the community that is carried out spontaneously, while legal awareness is more of an output of the thoughts, reasoning, and arguments produced by legal experts.[27] Legal awareness is an abstraction regarding the legal

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[23] Lawrence M. Friedman, ***American Law: An Introduction*** (New York: W.W. Norton & Co., 1984), p. 5-7. Read also Shidarta, ***Ibid.,*** p. 143.

[24] Lawrence M. Friedman, ***Ibid***. Shidarta, ***Ibid***. Shidarta added that Friedman also included patterns of social behavior and social norms other than law, so that they included social ethics such as the principles of truth and justice.

[25] Lawrence M. Friedman, ***Ibid***. Shidarta, ***Ibid***.

[26] J.J. von Schmid, Het Denken over Staat en Recht in de Tegenwoordige Tijd (Harlem: De Erven F. Bohn, 1965), p. 63. "*Van rechtsgevoel dient men te spreken bij spontaan, on middelijk als waarheid vastgestelde rechtswaardering, terwijl bij het rechtsbewustzijn men wet waarderingen te maken heef, die eerst middelijk, door nadenken, redeneren en argumentatie aanemelijk gemaakt worden*." (the sense of justice must be spontaneous, judged in the midst of law, while legal awareness has the right to make judgments that are first mediated by reasoning, reasoning and argumentation) as quoted by C.F.G. Sunaryati Hartono, ***Peranan Kesadaran Hukum Masyarakat dalam Pembaharuan Umum*** (Bandung: Binacipta, 1976), p. 3. Shhidarta, ***Ibid***.

[27] Sidharta, *Ibid*., p. 144.

feelings of justice seekers. In relation to this legal culture, it is a legal awareness of the justice seekers, in this case, the parties who are competing in following a series of proceedings at the trial.

It is necessary that the proceedings that lead to the fair trial are not only important for the parties but also the general public, which will increase public confidence in the judiciary. According to Lord Sankey, this is important so that justice must not only be carried out but also must be seen/felt to have been carried out (justice must be done but it must be seen to be done). This condition is linear if the law can also adjust to changes in society [28] because no other legal function is to protect the interests of the people as their constitutional rights.

The law serves to overcome conflicts of interest that may arise between citizens. This is in line with what was stated by Satjipto Rahardjo,[29]

> *... How the law exists in the community for the purpose of serving its people. Because he serves his community, he is also more or less dictated and limited by the possibilities that his community can provide. In this situation, what can be done by law is also determined by the resources available and available in the community.*

The problem of legal adjustment to changes that occur in society, especially what is meant is a positive law which is more specific, especially written law or legislation (in the broad sense). This is related to and in direct contact with legislative weaknesses that tend to be static, rigid, unclear, incomplete, empty, and incomplete. Normative classical and dogmatic views[30] tend to view the law as passive in change. The law is seen as merely adjusting to the changes that occur in the community.

[28] Achmad Ali and Wiwie Heryani, ***Menjelajahi Kajian Empiris terhadap Hukum***, Cet. II., (Jakarta: Kencana Prenadamedia Group, 2013), p. 203.
[29] Satjipto Rahardjo**,** ***Ilmu Hukum*** (Bandung: Alumni, 1982), p. 24.
[30] Achmad Ali and Wiwie Heryani, ***Op. Cit***.

The above view is presented by Waatson[31] cited by Adam Gearey, Wayne Morrison, and Robert Jago as follows:

> *Law ... is above all and primarythe culture of the lawyers and especially of the lawmaker, that is, of those lawyers who, whether as a legislator, jurists, or judges, have control of the accepted mechanisms of legal change. Legal development is determined by their culture; and social, economic, and political factors impinge on legal development only through their consciousness ... the law is largely autonomous and not shaped by societal needs: through legal institutions will not exist without corresponding social institutions, law evolves from the legal tradition.*[32]

Waatson's view tends to be different from the views of other experts.[33] According to him, legal changes are dominated by autonomous legal traditions. On the other hand, Waatson also acknowledged the influence of non-legal factors on changes in the law, that legal development was determined by their culture. Who are they? They are legislators, lawyers, judges. Where, social, economic and political factors only affect legal development through the elite awareness above.[34]

The law cannot be separated from the social context in which the law gets its legitimacy. The issue of legal legitimacy is important because the law is enforced and cannot be separated from the supporting community. The law has a mission to maintain and enhance values in the relations of society. Without a binding relationship between these values, the law concerned loses the meaning of its social relevance.[35]

Legal engagement with the community requires the law to always move away from the center of rotation or centrifugal towards the political, social, economic, cultural and technological

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[31] Adam Gearey, Wayne Morrison, and Robert Jago, ***The Politics Of The Common Law: Perspective, Rights, Processes, Institutions,*** Second Edition, (New York: Routledge, 2013), p. 34.

[32] Adam Gearey, Wayne Morrison, and Robert Jago, ***Ibid***.

[33] Achmad Ali and Wiwie Heryani, ***Log. Cit.,*** p. 204.

[34] Achmad Ali and Wiwie Heryani, ***Ibid***. The law does not advance the interests of the rulling class; instead, it reflects the culture of legal elite.

[35] Artidjo Alkostar, ***Relevansi Hukum …***, ***op. cit***., p. 212.

dynamics in society; because the law is not an empty container, then at the same time the law also moves centripetally towards the values that animate.[36] This shows the law has a spirit of life values that are so binding in a human community. The law that respects justice in the arrangement as described above, can be entered into a space called metanorms.[37]

Therefore, it is very important to distinguish justice without a state with justice by the state, because every country is basically obliged to uphold justice for every individual in society without exception. Moral and legal principles that will determine whether the state acts fairly or not against its citizens. When the moral and legal principles run, it will influence the policy-making of state power.

When Marcus Tullius Cicero revealed that the (rule) law was a silent judge, while the judge was the (rule) of the law that spoke; it seems that from the beginning of the century AD, the community has a hope for symbiosis that is harmonious, harmonious and balanced between them in giving birth to justice. The trio of Athenian philosophers (Socrates, Plato, and Aristotle), emphasized the aspect of justice. The nature of law is justice. The law functions to serve the needs of justice in society. The law refers to a rule of life that is in accordance with the ideals of living together, namely justice. Fill in the rule of law, it must be fair. Without justice, the law is only formalized violence. The law is felt important when society is faced with injustice. The community as a justice seeker filed a lawsuit in court. So one of the functions of the court is actually to realize justice itself.

Thus, the fulfillment of the Constitutional Rights of justice seekers in the recusal embodiment to obtain justice can be known if the rights of citizens, in this case, the parties who are in agreement regulated in the 1945 Constitution of the Republic of Indonesia have been fulfilled and implemented. Where in the national objective of the State of the Republic of Indonesia is mentioned to form a Government of the Republic of Indonesia which protects all the Indonesian people and all the Indonesian bloodshed and to advance the general welfare, and educate the life of the nation should be realized.

[36] *Ibid*.
[37] *Ibid*.

CONCLUSION

It is undeniable, that when justice seekers bring their case to court, the party wants justice in the form of the case they have advanced. Therefore, so that the case does not wither before it develops or does not want to convene to lose before its time (until the reading of the verdict) so that it is not only required an application or claim that is systematically prepared and equipped with valid evidence, but externally there needs to support from judges who are impartial and do not have biased prejudice in accordance with the principles of impartiality and independence.

In the realization of this recusal, the need for clear regulation regarding recusal submission, where it should be made in a systematic objection request letter such as an application submitted to the Constitutional Court which consists of at least the identity of the parties, the reasons for the objection and the desired matter. This is needed so that the "applicants" can focus more on their proposal. Therefore, it is necessary to have clear rules for the use of the recusal. And it should be included in the norms in all laws and regulations concerning the Indonesian Constitutional Court.

Then it is necessary to make a separate "trial" to give a verdict in the form of a decision to object to the recusal submission. In the trial, it is also necessary to involve the Constitutional Court Ethics Council as an outside party to be more transparent and objectively assess the recusal submission. Because a separate session is made, it is necessary for each recusal submission submitted by one of the justice seekers to be informed to the other party so that they can get feedback from the other party - *ex parte*.

With the clear regulation of the recusal submission by justice seekers against one or more constitutional judges and still considering the quorum of the judge, then one of the constitutional rights of justice seekers to obtain justice is fulfilled, in which cases that are brought forward in the trial are examined, tried and decided by a panel of judges who have undoubted independence and impartiality. Where, one of the obligations of constitutional judges is to protect rights and liberties, and protect the constitutional rights of justice seekers in obtaining justice.

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