

DEMOCRATIC TRANSITION AND CONSTITUTIONAL JUSTICE

POST *REFORMASI* CONSTITUTIONAL ADJUDICATION IN INDONESIA

In this book the authors establish that democratic constitutional and political transformations in Indonesia after the 1998 Reformasi had been given impetus with the establishment of the Constitutional Court. The work presents comprehensive and critical analysis of the development of constitutional adjudication, and the working of the Indonesian Constitutional Court and its role in the process of the democratic transition and consolidation of the country. Through its decisions the Court has emerged as an important institution in protecting the fundamental rights of citizen and in improving the quality of election. The amendment of the 1945 Constitution from 1999 to 2002 has made constitutional and democratic principles based the rule of law much clearer. With the assistance of the Constitutional Court the nation has successfully conducted peaceful general elections in 1999, 2004 and 2009. There are some weaknesses in the process of elections which been discussed critically in the book. These issues are reminders that the democratic consolidation in Indonesia is not finished yet and there still room for improvement. The book is an essential reference for scholars, students, policymakers and anybody who believes that constitutional reform is an important step in shaping the country to a better way.

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ISBN 978-967-491-031-0



9 789674 910310

IIUM Press

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**IIUM
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Gombak • 2020

First Print, 2020
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IIUM Press is a member of the Majlis Penerbitan Ilmiah Malaysia – MAPIM
(Malaysian Scholarly Publishing Council)
Malaysian Book Publishers Association – MABOPA
Membership No. 201905

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Perpustakaan Negara Malaysia

Cataloguing-in-Publication Data

Iwan Satriawan

Democratic Transition and Constitutional Justice: Post *Reformasi*
Constitutional Adjudication in Indonesia / Iwan Satriawan, Khairil
Azmin Mokhtar.

ISBN 978-967-491-031-0

1. Democracy--Indonesia.
2. Constitutional law--Indonesia.
3. Indonesia--Politics and government.
4. Government publications--Malaysia.

I. Khairil Azmin Mokhtar.

II. Title.

320.9598

Published by
IIUM Press

International Islamic University Malaysia
P.O. Box 10, 50728 Kuala Lumpur, Malaysia
Tel: +603-6421 5014; Fax: +603-6421 6298

Printed in Malaysia by
Reka Cetak Sdn. Bhd.

No. 12 & 14, Jalan Jemuju Empat 16/13D
Seksyen 16, 40200 Shah Alam
Selangor Darul Ehsan

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Chapter 1

Introduction

Bhinneka Tunggal Ika (Unity in Diversity) is Indonesia's national motto. The significance of the motto is very obvious from the country's geography and demography. The Republic of Indonesia, which lies between the Indian Ocean and the Pacific Ocean, is the world's largest archipelago with more than 17,500 islands. Beneath the surface of the unique and complex physical structure, Indonesia encompasses three major sections of the Earth's crust and involves a complicated series of shelves, volcanic mountain chains and deep-sea trenches.

In its various regions lived some two-to-three hundred ethnic groups with their own languages and dialects. More than 700 different dialects and languages are spoken among the communities, which makes it a highly diverse country. Apart from being the world's largest island country it is also the world's largest Muslim-majority nation and the world's third most populous democracy.

As in other Asian countries, local culture, tradition and religion are deeply embedded in the society. To establish unity among the wide and sparse population and to maintain the territorial integrity of this large nation are understandably, extremely challenging. Even among Western and developed nations, the practice of democracy and adherence to constitutionalism are still fraught with difficulties, what else in multicultural societies and developed countries which had been colonised by Western power for centuries in the east like Indonesia.

The archipelago which now constitutes Indonesia had been ruled by various kingdoms and empires before Western imperialism reached the soil. The ancient kingdoms and empires, similar to the Western monarchs in the early days, are based on absolutism. Idea of democracy emerged after World War II in the midst of its bloody independence from the Netherlands in 1945.

During the early period after its independence, based on the Constitutions of 1945 and 1949, Indonesia was a *de-facto* democracy