

Acts Contradicting with Pancasila Need Judicial Review

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Professor of Faculty of Law, Prof. Dr. Sudjito, S.H, urging the Indonesian Constitutional Court (MK) to actively perform judicial review of all acts and regulations that were deemed as contradictory and not in accordance with Pancasila and 1945 Constitution. According to the Professor, the Constitutional Court does not have to wait for a lawsuit from the public to be able to do judicial review. "During this time, the Court tends to wait, too passive. It has to be more active, it's not enough to just wait for the lawsuit," said Sudjito to the reporters at the office of Center for Pancasila Studies on Wednesday (28/9).

The statement was presented by Sudjito in the Seminar entitled 'Pancasila, the Constitution, and the Procedural Law of the Constitutional Court', which took place in Magister Manajemen UGM from 30 September -1 October 2011. Sudjito added that the Constitutional Court has to play a role in overseeing the implementation of Constitution for the organization of the state. Given that not every constitution is in accordance with the paradigm and philosophy of Pancasila and 1945 Constitution, if all of these acts are still enacted, it is feared that the state administration runs on a problematic act. "Many laws and acts are problematic, but still enacted. Such trends still continue to take place so that state enforcement is running on the flawed legislation," he said.

Sudjito also regretted the community groups and academics who are less concerned to the problems of legislation. However, this is not only the responsibility of society and academics alone, but also the Constitutional Court to oversee the implementation of the constitution.

Sudjito also mentioned about the profanity of various legal cases that rose recently due to the condition of law enforcement personnel who are not professional in carrying out their role. "It is possible that there are officials who play with the law, as indicated by the attitude of law enforcement officials that are unprofessional, not upholding morality," he added.

Chairman of the Pancasila Study Center Expert Team, Prof. Dr. dr. Sutaryo, SP.A (K), said the



current legal problems are due to the many legal products that are not produced based on Pancasila philosophy. Meanwhile, Heri Santoso, S.S, M. Hum., other researcher, said many legislations, government regulations, and president regulations are deemed problematic. He quotes the results of research presented at the Congress of Pancasila II which took place in Bali in 2010, saying that of the 80 laws examined, about 60 or 80 percent mention the Pancasila and the 1945 Constitution directly in the opening paragraph, not in each article. "Of that number, 19 or 21 percent of the Acts do not mention the Pancasila and 1945 Constitution," he said.

Heri added, the study also mentioned that there are 23 provincial and district regulations that do not mention Pancasila in the preamble as the basis of ideology.

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