**PUBLIC RELATION STRATEGY TO MAINTAIN AND ENSURE THE INDEPENDENCE OF THE CONSTITUTIONAL COURT**

**(Practices and Experience of The Constitutional Court of the Republic of Indonesia)**

M. Guntur Hamzah

(Secretary-General of the Constitutional Court of the Republic of Indonesia )

Good afternoon distinguished participants, ladies, and gentlemen. I am Guntur Hamzah, Secretary General of The Indonesian Constitutional Court, and I am honored to be invited by Max Planck Stiftung to take part in this session, especially to share the court experiences to our brother and sister from Maldives, on how the Public Relation Strategy can maintain and ensure the Independence of The Court.

**Introduction**

 First of all, the question that often asked is "how does the Constitutional Court maintain and guarantee neutrality and independence in deciding cases?". The question is actually a fair question, at least upon observing the MKRI as an institution of judicial power that carries great authority. In the 1945 Constitution of the Republic of Indonesia, it is stated that judicial power is "independent power". This means that independence is the main prerequisite for the Court to be able to uphold law and justice. To the Court, the principle of independence is the "soul" that allows to decide cases objectively, with clarity of thought, a clean heart, and based on fair law.

**Independence and Public Trust**

The measure of the independence of the judiciary is generally shown when the judiciary has succeeded in rejecting, avoiding, and removing themselves from the possibility and potential of intervention from any party, including from public opinion. The judiciary must be free from any influence. The judiciary must be able to cover all groups and interests. The vision and orientation must be clear, to uphold law and justice.

It is well known that the independence of the judiciary is directly related to public trust. It can be said that the business process of judicial institutions is a business of trust. It is undeniable that trust is the main pillar and integral part of the credibility of the Constitutional Court. Without trust, the Court will not be able to carry out the mandate to uphold law and justice in the corridors of its authority.

As in the discourse of justice, the efforts to maintain and guarantee the independence of the Court should not only be in a rhetorical form but need to be shown and proven to the public. The hope is that the real fact can be conveyed to the public; even though disturbances, temptations, or attacks on independence come and go in various forms, there will be measured and systematic efforts to maintain the principle of independence. Many things can be said regarding the independence of the Court, however, as has been determined, in this session we would like to convey efforts to maintain the independence from the perspective of public relations.

Previously, we must state that the public relations function of the Constitutional Court, which is carried out by the Secretariat General and technically carried out by the Public Relations and Protocol Bureau, basically contains 5 (five) main objectives, namely (1) collecting and providing information to meet the needs of public information; (2) conveying information rapidly and accurately at the right moment to the public; (3) monitoring and analyzing developments in public opinion, especially in the mass media related to institutions; (4) providing responses or correcting information deemed inconsistent with facts, moreover information that is actual or has the potential to harm the credibility the court; and (5) managing and cooperating with all stakeholders, including the press to show the image and credibility of the institution.

Based on these objectives, we will present our experience and practice of public relations strategy as an effort and support to ensure and maintain the independence of the Court. There are several key points that I will convey: (1) relating to the information disclosure strategy; (2) regarding the speed and accuracy of the information conveyed; (3) relations with the press or mass media; and (4) protective measures that are casuistic in nature to protect independence.

**Principle of Openness**

In the current era of democracy and openness, the independence of the judiciary is demanded to always be accompanied by the principle of transparency. Without transparency, independence is very likely to become an excuse for other matters outside the interests of upholding law and justice. Therefore, we are fully aware that openness is a safety fence as well as an instrument to maintain the independence of the Court. Besides, we understand that transparency is needed as a response to the increasing demands and expectations of the public for the right to obtain informations, especially to convince the public whether the Court has carried out its duties properly and correctly according to the mandate.

Based on this understanding, we believe that openness is not only an obligation but has become a necessity for the Court. A necessity means something that must be fulfilled. For that reason, we have long been inspired by the statement of Jeremy Bentham, *as long as there is no openness, justice will not be born. Openness is the spirit of justice. Openness is also a tool to fight back as well as the main guard against dishonesty*. We have strived to manifest this inspirational statement by Bentham in various implementations of public relations strategies.

1. Open Trials

In the corridor of openness, one of the commitments that has been practiced for a long time is to apply the principles of open justice, among others, by holding trials that are open to the public. This is indeed an order of the Constitutional Court Law, but as time and technology develop, open trials are not just about opening wide the doors of the courtroom and allowing the public to follow them, but using technology to broadcast every trial through live streaming, both through the Constitutional Court website and the YouTube channel so that the public can watch and monitor. Nowadays, wherever people are, as long as there is an internet network, the trial can be watched live through their respective gadgets.

To us, an open trial informs the public as well as fulfilling the right to witness the trial process based on fairness, under the procedural law, and equal opportunities for parties, while ensuring that the process can be accounted for theoretically, legally, and morally, both to the public and to God. Why should the public be granted access? We fully agree with the statement that *"a trial is a public event. What transpires in the courtroom is public property"*.

1. Information Disclosure

The next public relations strategy is to provide and open access to all public domain information regarding activities and performance of the Court, both judicial and non-judicial. We have a strong intention to be transparent in all aspects. Starting from the system, mechanisms, procedures for cases, development of cases and decisions, planning, use of budgets, activities, and accountability mechanisms. All information that is in the public domain should be known to the public. This kind of openness leaves no room for dark passages that can create prejudice and cause uncertainty. The Indonesia Constitutional Court has thrown away the closed regime.

All information is displayed through the official website: www.mkri.id. The public can quickly access the information they require and desire. Moreover, we optimize the use of social media. We manage 4 (four) social media platforms: Instagram, Facebook, Youtube, and Twitter. The four of them provide significant support for the publicity of the activities and performance of the Court, especially to address the needs of the social media user segment (netizens).

To us, opening and facilitating access to information to the public is one of the silk roads to obtain and strengthen public trust. It is through public trust that we can answer the question of why the public accepts and implements the decision of the Court.

**Speed of Providing Information**

Escorting open trials and information disclosure, the speed of information provision is an important factor. The daily activities at the Court are so dynamic. The development of case handling continues. Trials are held almost every day. Non-judicial programs and activities also take place. We publish every activities through the information that can be accessed by the public immediately. Information and news on the website www.mkri.id are always updated. For example, we apply standards that news about trials must be uploaded on the same day, likewise on social media platforms.

We want to ensure that in addition to the information we provide to become news references for journalists, the speed at which this information is provided can anticipate the emergence of news that is sometimes distorted and not under facts. The speed at which the official information is displayed will be the answer when other information appears of questionable accuracy.

For instance, the Court has adopted the policy to directly upload the petition files submitted to the Court's website, shortly after the petition is received. There are 2 (two) benefits of this policy. First, the public can immediately know and participate in observing the substance of the request directly from official sources. Second, the policy demands that whoever submits the petition to be more careful and serious in compiling it. This is because their petition will immediately be read by the public.

**Relations with the Press**

Further is regards to the relations with the Press. The main institution that carries out court publicity tasks is the press or the mass media. In many cases and opportunities, it must be admitted that as time goes by, the mass media effectively continuously report and inform about how the Court works. Joe Mathewson's research found that in the internet era like nowadays when courts always post decisions immediately through their website, courts, judges, and citizens still like to depend on the mass media.

Therefore, it must be admitted, some or even most people still depend on the publicity carried out by the mass media, whether through print media, electronic media, or online media. Therefore, we open the door for interaction with the mass media. For this reason, even though the official website has presented all public domain information, the Court still feels it is important to establish a relationship with the press. In short, we need the mass media to demonstrate their ability to assist and protect the Court from all forms of intervention that threaten its independence.

 We continue to maintain good relations with the mass media by inviting journalists to attend and publish many important ceremonies and moments, ranging from routine agendas, such as trials, to agendas outside of trials. We also conduct a press release before a trial is held. The goal is that journalists have sufficient initial information related to the trial to be covered.

 Cooperation is built to disseminate cases and decisions as well as other non-case activities. We collaborated to produce and display thematic talk shows according to actual needs and issues, includes to publish decisions. Additionally, media visits are also carried out to further strengthen warm relations with the media. The leaders of the Court visits many mass media for a direct dialogue with the chief of editor regarding other actual issues.

 To interact with journalists, the Court appoints a spokesperson from the Constitutional Justice element for issues related to the case. Meanwhile, for institutional and procedural technical matters, we appoint specific officials to carry out the communication function with the mass media.

 Still regarding press relations, we conduct monitoring and analysis of media coverage monthly. This, apart from proving the magnitude of the influence of mass media coverage on the public, is also an instrument to determine the extent and form of mass media coverage of the Court. If there is news that is not following the facts, especially concerning independence, if deemed necessary, we immediately provide responses or clarification to straighten the news.

**Casuistic Protection Measures**

 Lastly, on several occasions, due to the dissatisfaction with, for example, the verdict, statements may appear in public that essentially undermines the authority or attack the independence of the Court. The statements are then published in the mass media. It is undeniable that these statements often appear based on mere assumptions and emotions which are not based on facts. However, when published in the mass media, such statements may form a negative tone of public opinion, even though the facts disagree.

 In such cases, to safeguard and protect the independence and authority of the Court, we take legal steps. This means that for the people who submit statements that are detrimental to the credibility of the Court, we report them to the Police to be processed according to the law. We are not against criticism. In fact, we appreciate criticism. Apart from being a form of public attention, criticism is a supplement for improvement if it is delivered politely and constructively. However, concerning statements that are seen as ignoring respect for the Court as a judicial institution, we expressly submit that the matter is to be resolved based on the applicable law.

 Criticism toward the courts, is allowed and open to do. However, as a public institution, the Court must not help but be ready to accept criticism. But of course, in a polite and civilized manner and based on objective facts, not just an assumption, let alone an insinuative one. Things that cannot be justified at all are actions or statements that undermine the authority and dignity of the Court, let alone nuances of attacks on independence in deciding cases. If that happens, then legal measures to ensure and protect the authority and dignity of the Court must be taken.

Finally, as a conclusion, allow me to quote the research of Monika Hanych (Tilburg University, Netherlands) says that Judiciary is a cornerstone of modern democracies together with two other pillars. Being a guardian of justice and rights, The Court have to be impartial and independent in both objective and subjective ways. That is why the concept of judicial independence has been examined vis-à-vis the media and public opinion which are regarded as one of the most influential extralegal factors regarding judicial decision-making. Is it also due to a tension between judicial independence which should not be dependent upon anything than the law but needs a public legitimacy, and the media who bring the information about the judiciary to the public and have the power to shape public opinion in this regard. Thank you.

\*\*\*\*\*