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## LAPORAN AKHIR PENELITIAN

### HIBAH KOMPETENSI



### JUDUL PENELITIAN

MODEL REKONSTRUKSI TRADISI BERNEGARA DALAM  
KONSTITUSI PASCAAMANDEMEN UUD 1945

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## HALAMAN PENGESAHAN

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## SUMMARY

The research focuses to investigate the ideas of reconstruction of constitutional tradition among the founding father of Indonesia and its development in practices before and after the amendment of the Indonesian Constitution. Based on documentary or normative research, the research finds that there are two pattern of reconstruction of tradition in Indonesia, which is used as model for reconstruction of tradition in the constitution, namely the absolute particular and the relative particular. Historically, before the amendment of the Indonesian Constitution, the reconstruction of tradition was practiced based on absolute particular model, while after the constitutional amendment tends to reject to reconstruct the tradition at the national structure but recognize the tradition at local structure. Generally, it can be concluded that the amendment of the Indonesian Constitution does not have an obvious pattern of reconstruction of tradition. It contradicts with the original meaning of the founders that obviously believed tradition as a basic to create a national constitutional system.

Comparatively, Malaysia has been practicing reconstruction of tradition based on particular relative model by apply the *perpatih* tradition, which is originated from Minangkabau tradition. The *perpatih* tradition is a democratic tradition, which applied in Negeri Sembilan, Malaysia. Based on the *perpatih* tradition, the *Yang di-Pertuan Besar* as the monarch of Negeri Sembilan should be elected by the four of *Undangs*. The founders of Malaysia have applied the *perpatih* tradition in the Malaysian elected monarch system to choose the *Yang di-Pertuan Agong* as the monarch of Malaysia for a five-year term. This point out that Malaysia reconstructs the tradition in national and local structure.

## PREFACE

The progress report of the second-year research focused on study of comparisons of the reconstruction of tradition between Indonesia and Malaysia. Generally, the research founded that the reconstruction of tradition in Indonesia before the amendment of the Constitution of 1945 applied the particular-relative, however after the amendment tends to reject the tradition to be reconstructed in the national structure, but recognizes the tradition in the local structure. Comparatively, Malaysia has been reconstructing the tradition both in national and local structure. Malaysia reconstructs the tradition of *perpatih*, which actually originated from Minangkabau, a cultural region in Indonesia.

The output of the second-year research are two papers to be presented at the nasional conference in Surabaya and the international seminars in Bandung. Those papers will be submitted to the national journal (Jurnal Hukum UII-Yogyakarta) and the international journal (Asia Pacific Law Review-LexisNexis, Hongkong).

Based on the second-year research, the research will be followed by the third-year research to evaluate the reconstruction of tradition in the amendment of the 1945 Constitution and then create a model of reconstruction of tradition in Indonesia. The model can be used as standard or guidelines to make or interpret the 1945 Constitution according to tradition of Indonesia.

Surakarta, 2 December 2013

Aidul Fitriadi Azhari

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- Appendix 2. Reconstruction of Constitutional Traditions in the Indonesian and Malaysian Constitution: A Comparison, Paper presented on the 2013 Padjadjaran International Legal Conference, Bandung, 22-24 October 2013.
- Appendix 3. Reconstruction of Constitutional Traditions in the Indonesian and Malaysian Constitution: A Comparison, Draft of Article for Asian Jurnal of Comparative Law
- Appendix 4. Reconstuction of Statecraft Tradition in The Post Amandment of The 1945 Constitution: The Tensions Between Tradition and Modernity in Positive Legal System, Draft of Article for Jurnal Ilmu Hukum UII
- Appendix 4. Certificate of The 2013 Padjadjaran International Legal Conference, Bandung 22-24 October 2013
- Appendix 5. Certificate of the National Conference of Legal Philosophy, Surabaya 27-28 August 2013.