

# The Content Materials Of Modern Constitution In Indonesian Kingdom's Acts

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## Abstract

The achievement of Indonesia's national purpose, which is creating a fair and prosperous society, really needs national spirit in form of value, norm, and formulation model on traditional constitution law norm in Nusantara. Efforts of exploration and development on the value and formulation model of traditional constitutional law in Nusantara must be done with confident and creativity by all nation's descents. The historical-judicial fact reveals that traditional constitutional law in Nusantara possesses modern constitutional contents, including the limitation on the power of the nation's leader, civil's rights, state's organizations or institutions, the procedur in composing groundnorm/constitution, and independent judicial institution. All those contents in modern constitution are clearly and completely arranged as law principles which characterize with understandable language, describes the bad impact of dishonesty, uses examples, gives hard punishment, has open formulation norm, and its law norm is flexible for changes.

**Keywords:** Constitution, National Spirit, Honesty

## 1. Introduction

Kredo, *Ubi societas ibi ius*, if there's society, law will be there. Means that each society has their own unique law system. In Savigny's thesis, law possess *rationale* character since the beginning. Just like language, tradition, and constitution, it is unique for its society. Law phenomenon is not stand alone, but united in the society's nature because of the similarity in their foundation. Law is not a sudden matter, but born form the society's spiritual conscious. That's why law grows with altogether with the society and disappear when the people had lost their national spirit. In the result, law is not artificially created, but discovered beneath its society's hollow.

Today's societies in Indonesia is the next form of the previous societies in the past. As do so to the law system (The Constitution Republic Indonesia 1945), ideally it should be the next form of the development of the past existing values, principles, and formulation model of law norm. The existing law is a rule that made and used by Indonesian people's ancestors as for example can be fund in the traditional constitution of Nusantara. Actually, today's law and law in the past is one unity which is closely related, continuous, and unbrokeable. As known that today's law structure contains past law's elements and creates the buds of law in the incoming era.

The Republic of Indonesia was established by its founding fathers above a strong and sturdy foundation that has been well known in the name Pancasila, The Five Guiding Principles. Pancasila as a qualified foundation of course structured from qualified law materials. Pancasila was made from law values that life and grow inside the womb of original Nusantara civilization. Those values had grown become Nusantara society's law consciousness. Reflects from the process of creating Pancasila by the founding fathers, inspires as well as gives instruction to Indonesian people in creating the national law, should conducts the same way as had ben done by the founders. The most prime thing in creating law is search and refine the values, principles, and formulation model of traditional states law in Nusantara which had transformed into law consciousness or Indonesian national spirit (*volkgeist*).

The searching efforts on the values, principles, and formulation model of traditional states law in Nusantara for the development of national law, seems has stopped only in the formulation of Pancasila. The formulation of law norm that based on honesty in The Constitution of Republic Indonesia 1945 both before and after the amendmen was unclear (vague of norm) and incomplete. Characters in The formulation of law norm that based on honesty in The Constitution of Republic Indonesia 1945 is really backside with the formulation of law norm in the traditional constitution of Nusantara. On the other word, The formulation of law norm that based on honesty in The Constitution of Republic Indonesia 1945 is so much painted with the values of European (the civil law system) and American state law system. It can be understood since the establishment process of The Constitution of Republic Indonesia 1945 was done during the war emergency condition and the references about research result on the traditional state law system of Nusantara was not as much as today. Beside of that, the makers of The Constitution of Republic Indonesia 1945 in general were scholars from Netherland's schools. The

subcommission of the constitution makers which is composed by 19 members, 9 of them were law scholars who attained well education in both Netherland's universities or Rechts-hogeschool in Batavia (Jakarta today). There so with the representatives that were involved in the amendmen of The Constitution of Republic Indonesia 1945 in 1999-2002, most of them were raised in the curriculum of law education that praised legalistic or positivistic.

The condition of Indonesian people today is more desperate, which not only unwilling to refind the values that spread in the traditional state law system in Nusantara, but also starts to apply law values from the outside. On the other words, Indonesia people today is inconfident with the values in the Pancasila. According to America's intellectual and politician, John Gardner: *"No nation can achieve greatness unless it believes in something, and unless that something has moral dimensions to sustain a great civilization"*

One character or law pattern is flexible in term of adapting to the changes of the era. On the development, it cn be known that traditional law experienced several effects from the era, for example the affection from Hinduism, Islam, Dutch, and Japanese, and also effect from the independent era of Republic of Indonesia. The independent era of Republic of Indonesia is a period where the traditional law received the hardest test and challenge from the entire period of traditional law development in Nusantara. Traditional law faced a very hard trial in the law system of Indonesia, since traditional law as a heritage from the ancestors that very "highly respected" achieved uncertain position in Indonesian law system. In the contrary, the western law (European law) achieved an honourable place to stay alive and act as in the law system of Indonesia though the Dutch and its colonial government had long gone from our country.

The founding fathers agreed to establish a modern country in the name The Republic of Indonesia, that political will brought a logical consequence to create a modern law system. One character of modern law system is that the legislation process was done by the elite ruler and democratic forum and also the professional specialists with legalisticpositifistic character. Modern law was saw as no more than only an instrument for cuntry's power. It was no longer suspected to have its effectiveness from its congruen with the popular culture, but from the consentrion of political power that represented by country. Furher, law becomes seem more like a pure technical regulation, there are many of them contain no moral elements, values, principles, and formulation model of law norm that reflects Indonesian national spirit (volkgeist). Law becomes more sided when it turns into an advanced regulator in the middle of a complex society.

*After the reformation era has been done by Indonesian people for almost 15 years*, the recent people feels miserable and questioning the future of the country's organization. Reformation has surely refound democraton, *especially the political democraton that focused on freedom and transparency* (italics by writter), on the other side, it should be questioned, whether the existing democracy today has been appropriate to the culture and civilization of Indonesian democracy or not? So do with the economic system, whether it has been suitable to the princiles of social justice and as much as prosperity for the people or not.

The critical law student sees that, recently there is a deviation in the process of law creation in Indonesia that potentially will bring a negative impact towards *nation and national's life* (italics by writer). The deviation in that law making process happened because Indonesia was brought along "modernity trap", where law was built frommodern social values that are expected to force the development. While on the other side Indonesian positive law had been "paralyzed" from the values, principles, and formulation model of law norm which had been national legal consciousness, since it had been seen as a block for nation's advancement.

Most of Indonesian, especially the nation power holder in all three branches of power, prefer the Western law system (both Civil law system and common law system). The western law had given an honourable place to stay alive and legal in Indonesia eventhough the Dutch and its colonial had long gone from Indonesia. Because of the colonization for almost 3,5 centuries, remain a deep injury, that is the brainwashing to some Indoneia that makes the people become less confident in expressing the values, principles, and formulation model of adat law norm (including Adat acts from the kingdoms in Nusantara)

This acute crisis faced by the Republic of Indonesia signals that it needs more than politics as usual to heal it. The Republic of Indonesia needs a new political vision, as proverb says, *"where there is no vision, the people perish."* This vision must considers the reality that this national crisis rooted far to the morality and ethos crisis that strike people's spirit and cause the lost of confident (italics by writter). A healing effort is required by re-strengthen people's ethic and character foundation based on its own philosophy and perspective on life and world.

Just like a tree, the history of a strong nation can't be pulled off from its historical soil and root, social cultural ecosystem, imperception system (signification), and its own life view on the world. The answer keys for those various phenomena, one of them is the application and development of values, principles, and formulation model of the past law norm, for one example can be found in the traditional constitution of Nusantara. For that reason, it is important to conduct a deep study (*indepth research*) to trace back the content material of modern constitution that contained in the adat constitution of Nusantara to solve the research question, whether the ancient law manuscript or document from several kingdoms in Nusantara that had been learnt can be used as the source of constitution.

## 2. Research Method

The type of this research is the normative law research by studying positive norms in the prevailing positive legislation system related to conduct a deep study (*indepth research*) to trace back the content material of modern constitution that contained in the adat constitution of Nusantara to solve the research question, whether the ancient law manuscript or document from several kingdoms in Nusantara that had been learnt can be used as the source of constitution.

This research uses the statute approach that is using the stipulations in related legislation to be made as reference in solving submitted law issue (Peter Machmud Marzuki: 2008), the case approach that is by studying the cases that already have One character or law pattern is flexible in term of adapting to the changes of the era. On the development, it can be known that traditional law experienced several effects from the era, for example the affection from Hinduism, Islam, Dutch, and Japanese, and also effect from the independent era of Republic of Indonesia. The independent era of Republic of Indonesia is a period where the traditional law received the hardest test and challenge from the entire period of traditional law development in Nusantara. Traditional law faced a very hard trial in the law system of Indonesia, since traditional law as a heritage from the ancestors that very “highly respected” achieved uncertain position in Indonesian law system. In the contrary, the western law (European law) achieved an honorable place to stay alive and act as in the law system of Indonesia though the Dutch and its colonial government had long gone from our country.

## 3. Result of Research & Analysis

To analyze the thematic above, writer uses only one theory, that is material contents in modern constitution as been published by J. G. Steenbeek, A.A.H. Struycken, and Miriam Budiardjo.

According to J.G Steenbeek, as cited by Sri Soemantri in his dissertation that clearly imagine what should be contained in a constitution, that are (i) there a guarantee on human rights and civil rights, (ii) there is a state organization that has a fundamental character, and (iii) there is limitation and separation on the state’s power which also has a fundamental character.

A.A.H. Struycken stated that constitution must bear: (i) people’s political struggle in the past, (ii) the highest levels of nation’s state development, (iii) the vision of people’s figures which are going to be realized, whether in the recent time or in the future, (iv) a will, in which nation’s state development will be led.

According to Miriam Budiardjo, every constitution must rules certain things, such as: (1) state organization, for example the separation of power in legislative, executive, and judicative, the power separation between the federal government with the state government, procedure to solve problem on jurisdiction breach by one of government’s institution, and so on, (ii) human rights, (iii) procedure to amendmen the constitution, and (iv) sometimes contains a prohibition of changing certain character of the constitution.

Stand from the theory of content materials in modern constitution that presented by several state law experts as shown above, writer concludes that content materials of constitution are including: (i) the regulation on the limitation of power possess by president/king; (ii) the regulation on civil rights; (iii) the regulation on bureaucracy organization or state institution; (iv) regulation on the creation and amendmen of constitution; and (v) regulation on independnt juridicial institution.

From those five elements of constitution’s content materials that absolutely must be stated in the law manuscripts or documents of kingdoms in Nusantara are four elements of content material, which are: (i) the regulation on the limitation of power possess by president/king; (ii) the regulation on civil rights; (iii) the regulation on bureaucracy organization or state institution; and (iv) regulation on the creation and amendmen of constitution. Why does the fifth elements in content materials of constitution on the regulation of independent juridicial institution not included in law manuscripts of kingdoms in Nusantara? The answer is, because the juridicial institution in the era of Nusantara kingdoms in general became one with the organization of the government. King and mostly the ministers also acted as judge, but it doesn’t mean that people at that time didn’t get justice. A fair law doesn’t come only from an independent juridicial institution, but mostly affected by the morality of the judge that administer the case.

### 3.1. Content Materials of Constitution in Minangkabau Adat Acts (MAA)

#### a. The Regulation on Limitation of the President Power

According to Anis Masykur, Indonesian’s ancestor in practicing law in the past, didn’t treat the adat law act as same with the modern law act today, the sentence and the wording must be kept exactly same with the authentic. Law acts in modern concept is considered “sacred” that hard to change. While the adat law act in the past was not like this. The wordings of adat law can be interpreted by the elder as adjusted to the condition at that time. As has been explained in the beginning, MAA consists of 9 parts, amongst them are Acts on Kings (king’s leadership), and Acts on Village Chief (Adat chief leadership). On those two chapters, ny rules about duties and prohibitions for King and village chief are clearly regulated.

To make sure the main duties/obligations of king can be conducted very, so it must be based on a deep feeling towards its country, people, intellectual, spiritual leader, parents, cultural leader, builder, and honest people. Below is the cited law norm:

Paragraph 28.16 ... First, love to country, second, love to country's substance, third, love to pious people, fourth, love to mufti, fifth, love to parents, sixth, love to builder, seventh, love to all village chieftains, eight, love to people who follow his words (honest people). Those are the highest/prime to the realm (kingdom) and the highest for country. Do not violate those I left, for you will done well on every of your doing.

Based on this sentence, the limit to the power of a statechief is measured from how far he loves his country and his people. Love the people means that the statechief is obliged to protect, make wealth, and educate its citizen. Statechief of king, based on the paragraph 48.16 of MAA, must become useful for his people, such like a river containing fishes as one of food resource which is required by everyone.

Love the country, has within it a meaning that a statechief or king must be capable to keep all natural resources within his territorial area (land, sea, and air) from any resistances made by intruders. If a statechief can't keep the natural resources within his territorial area, then that chief can be stated has been violating its power limit of its obligation as regulated in the constitution of MAA.

To make sure that the state governmental can work effectively, by the mean the citizen obey the adat law and support every program launched by governemt/kingdom, the king must be able to do its main duties/obligations, which are: (1) banish every crimes that treat security and peace of the society; (2) use the state's money only to make goodness and prosperity for the people/nation; (3) keep the kingdom solid from any treat, challenge, handicap, and disturbance, whether from the outside or inside; (4) creates workfield for every citizen; (5) understand and do every rules of adat law; (6) solves every problems within the borderstate; (7) develop everything that considered as good by the society; (8) brings justice, and (9) do honest. All those nine king's obligations was formed in the law principle as sentenced in several paragraphs of MAA as below:

Paragraph 29.6 ... Datuk Perpatih Sebatang continues his message. To be an honourable and excellent person, must conquer six things: first, strong against the bad, second, strong to spend possessions in anygood ways, third, strong in supporting the borderstate, fourth, strong in providing works, fifth, knowing the right and wrong, sixth, strong in solving complications (every problems) in the country.

Paragraph 36.6. In the name of Allah who is the most beneficent and and the merciful. To whom we pray for help in diguising our weaknesses in every of our doing, the mightiest king, the most honourable ruler, the representatives of Allah in earth to rule the world, the most know in Arabian and other than Arabian who says honest ...

Paragraph 76.1 ... and then, "*Bizikri fil kitabil fawakihil jamiah, waman sadaqaumahu fahmi wa saiyidun*", means, whoever leads his people, then he is a chieftain. The prerequisite is holding a fair law. As had been said by headmen that had ever been the chief that, large orchard without partition, large field has no bund, that means be equal to his children and every descendant. If it's not, then that is a chief that lost the heirloom. So banished his country. So reduced his follower by Allah Taala.

## **b. The Regulation on Civil Rights**

people as citizen, in the constitution system of Pagarruyung kingdom as sentenced in MAA, has several rights, such as: (1) right on security and peace guarantee ; (2) right to get a job; (3) right to be equal before law; (4) right to get a proper wealth; and (5) right on the use of kingdom's money on the right and proper way. Those rights were stated on the formulation of adat law norm as how had been cited in the paragraphs below:

paragraph 29.6 ... Datuk Perpatih Sebatang continues his message. To be an honourable and excellent person, must conquer six things: first, strong against the bad, second, strong to spend possessions in anygood ways, third, strong in supporting the borderstate, fourth, strong in providing works, fifth, knowing the right and wrong, sixth, strong in solving complications ...

paragraph 34.11. the prerequisite words: "*Al ma'ru bil makrufi ahsaya anilmunkari*" means: orders people to do good and prevents people to do *munkar* (evil). Also come Allah's decree, as says: "*Ina ahkantum bainannasi antahkumul biladi*" means, if punishing people amongst the man, then give it fair. The prophet says: "*Ta'alim! Waluaanil adilul au dia syaiun fil mauidihi*" that means, being fair is placing thing on its rightful place. Pounding must in the mortar, cooking must in the cauldron. Country will be messed if the chief doing violation in the country.

### c. Regulation on State Institution

The king's duty in managing the power of state is very large and complex. Because of that, the king pointed several men to be his assistants. The king's assistants around the circle of Realm King (central government) that regulated by MAA consists of : The King, The Village Chiefs, *Pandito* (experts/educated people), Judge, *Imam/Hatib* (religion leader), *Mantri* (envoy), *Hulubalang* (war chief), and the staffs. The organization structure in the central government was also applied in the regional government (*Laras, Luhak, Koto, and Nagari*). Related to the state organization, it is stated in the paragraph 34.6 MAA, as shown in the citation below:

paragraph 34.6. and there's also high greeting for the king, the village chiefs, the intellectuals, every *mantri* (envoy), every staffs, every *imam* and *khatib* (religion leader), and every *hulubalang* (war chief). And also for all *hulubalang*, all Minangkabau's children that roofed by the sky and landed by the earth, for all of us in the wander place, chiefed *luhak*, the sacred land's culture, which is common for us and common in tradition, that is banish the bad and invite the goodness.

### d. Regulation on the procedure of Groundnorm/Constitution Making

The procedure of groundnorm or constitution making in Pagarruyung Kingdom at that time was already knew the conference system. Person that involved in the process of Groundnorm/Constitution making is consists of several people that considered as having the capability in Minangkabau adat law. people that are considered as capable in Minangkabau adat law are The Realm king, poet (in Pagarruyung Kingdom was known as *Pandito*. The Village Chiefs in every level (*Laras, Luhak, Koto, and Nagari*). The *Imam/Religion Leader*, and the chief of the tribes. In the other words, the groundnorm/constitution and other adat laws weren't assembled only by the king himself, the making process was always through conference forum. Adat law norm that regulate the mechanism in making the groundnorm/constitution and other adat laws is stated in paragraph 2.11, as in the citation below:

Paragraph 2.11. Discuss it, *Pandito* (the experts/intellectuals) in four people, which all of those is in Arabian and Ajam country. Then the result of that conference is the act and the realm organization in every legal business, that is the nine-points acts, with its five parts children. First, the act that concerns to the kings, second, the act for the village chiefs, third, the act about the realm, fourth, the act on dressing, fifth, the act on the games, sixth, the act on the sounds, seventh, the act about festives in public, eighth, the act conserning on everything in the realm, and ninth, the act on the might of the realm ...

### e. Regulation on Independent Judicial Institution

An independent judicial institution, free from the reach of king's power in establishing adat law in the region of Pagarruyung Kingdom, was not found in the adat norm regulation in MA. Judicial institution in adat law region of Pagarruyung Kingdom became one to the king institution. King as the chiefstate, village chiefs in every level (*Laras, Luhak, Koto, and Nagari*) that lead the below regions, smetime also act as judge. Judicative institution system that sticked with the executive institution, not abolutely people as the justice seeker didn't receive it. A fair verdict actually depends on the inegrity or moral of the judges as the lawkeeper. Because of that, in Pagarruyung Kingdom and any kingdoms in Nusantara, in their groundnorm or contitution really orders to be fair in solving a case. In two from five content materials in modern constitution, MAA fulfilled four conditions of content materials of constitution. Those four conditions including: (1) the regulation on the limitation of statechief's power (president/king); (2) regulation on civil rights; (3) regulation on state institution; and (4) regulation on the procedure of groundnorm/constitution making. As been explained above, a law document can be classified as constitution if it has fulfilled four content materials of constitution. If it is, so, the law documents that stated in the MAA is qualified as the Constitution of Pagarruyung Kingdom.

## 3.2. Content Materials of Constitution in Serat Niti Praja

### a. Regulation on Power Limitation of Statechief

The regulation on power limitation of Mataram King was stated in paragraph or "*pada*" (javanese) "Serat Niti Praja", as shown in the law norm citation below.

How was the character of a king that is demanded by people of Mataram/Surakarta Kingdom at that time? That is a leader that possess ten supreme moral characters, which are: (1) a leader who loves his people; (2) do anything to make wealth and prosperity for his country and people; (3) unwilling to illegal wealth; (4) knowing and obedience to the regulation; (5) a leader that ready for succession; (6) does not arrogant; (7) looking for honourable death; (8) not sided to his family's or allys business; (9) always cautious to any treat whether from the inside or outside; and (10) stand strong to critics and mockeries. These excellent characters had been formulated by the ancestors of Javanese, and made as the state law norm of Mataram Kingdom.

## b. Regulation on Civil Rights

in the modern state law system, citizen's rights must be avowed and clearly stated in the state constitution. Based on the historical document of Kasunanan Surakarta, in this context is Serat Niti Praja that had been written 368 years ago, it also already stated the rights of its citizen. Those stated rights are: (1) right for protection from danger; (2) right to achieve fair wealth and prosperity; (3) right to get happiness and joy; (4) right to get a careful and wise action from the ruler; (5) right to get support in the cause of disaster; (6) right to get justice; and (7) right to get a well environment and enough resources for life.

Norm that regulates the state's obligation to support its citizen from handicap or disaster was stated in Serat Niti Praja as shown below:

Paragraph17. Establish the law by being strong in meditation, holding a very heavy burden, dare to face death for honour, then he will be respected by men with love, being generous in each day without counting on his possession, to everyone in need and the soldiers and ministers, being generous as he wish.

According to adat law norm above, each citizen of Mataram Kingdom are rightful for protection from any disturbance to their security and peace.the country through its security personal always have to improve its professionalism in fighting resistances towards security and order in society. country must not lose to the criminal.

Not only in security and peace, country also obliged to guarantee prosperity for its people. Every single soul of citizen in Mataram must be guaranteed to get food and more than that must be able to life prosperously. Country are obliged to help the women keep their dignity and also to everyone in need.

## c. Regulation on State Institutions

regulation on state institution in adat law system was not stated in one specific chapter or several sentences to regulate those institution altogether with their duties, function, and authorities. The organization of Mataram Kingdom in the year 1613 was found in several random sentences, from those names of institutional position we can conclude the institution or state organization. State institutions that located randomly in several sentences works to the entire adat law system from Pagarruyung Kingdom in West Sumatera, Kasunanan Surakarta in Middle Java, Bone Kingdom in South Sulawesi, Kutai Kartanegara Kingdom in East Kalimantan, even to Tidore Empire in North Moluccas.

State institution or state organization in Mataram Kingdom under the rule of Sultan Agung Hanyokro Kusumo in the year 1613-1646 including: King, *Patih* (Prime Minister), Ministers, *Pujangga* (Poet/Expert Staff), *Adapati* (Governor), Judge, Attorney, and *Punggawa* (War Chief). That state institution of Mataram Kingdom was pronounced in several paragraphs of Serat Niti Praja, those are: paragraph 4, paragraph 6, paragraph11, paragraph23, paragraph24, paragraph54, paragraph55, paragraph61, and paragraph 65.

The position of king/queen can be noticed from structure in paragraph 55, it's cited: "*iku duta kang angene, imba caraning ratu...*" (you must remember that you are as an ambassador represents your King/Queen's sovereignty and honour, ...). the position of *Patih* (Prime Minister) is noticed in paragraph11: *Punika reke nistaning Patih...* (that is a disgrace for a *Patih*). The position of Minister can be found in paragraph 6: *Panggih panggehaning jalma singgih, yen sinewaka ing panangkilan, pepak satanda Mantrine...* (in the trial before the King, if right in front of the hall completely with all ministers ...). the position of Regent can be found in paragraph 4: "*Yen sira tiningkah ing Bupati, rinaket ing nata raganira...*"(if you are granted to be a Regent, you will be close to the King). The position of *Punggawa* (War Chief)was stated in Paragraf 6: "*lamun sira tan pesthi linggih, dalanipun tan kontap, dening bala semu...*".(... if you are not gentle in your sitting manner, your steps are not brief, then low your authority in front of the War Chief,...).

## d. Regulation on The Making of Written Groundnorm/Constitution

To know how Javanese ancestors in Kasunanan Surakarta formulate the written groundnorm/constitution "Serat Niti Praja", it can be known in the one way is through the formulation of first paragraph that says:

Like sinking in the sea of fire, my feelings right now, while writing this book, I give it name Serat Nitipraja, by the means want to take example from The Poet, break the mind as an heritage after my gone, force myself to the beautiful letters, following the smart and intellectual so can be used as example or guidance.

Based on the paragraph above, it can be infered th the procedure of making the acts in general and the constitution especially, was done in two mechanism, which are the first step was done by the ing himself and the second, the draft of the act was prepared by kingdom's *Pujangga* (Poet/intellectuals) that after that was proposed to the King for acceptance. Related to the writing process of Serat Niti Praja, based on the formulation of the

first paragraph above, it can be concluded that “Serat Niti Praja” was written directly by the King, in this case is Sultan Agung. In the wordings in the first paragraph there is a sentence that says: “this book I give it name Serat Niti Praja.” The word I shows that it refers to the writer, by that, “Serat Niti Praja was written directly by the king of Mataram Kingdom at that time, the Great Sultan. If it was written by the poets it will be impossible to use the word”I”, since they will use phrase “*Ingkang sinuwun*” (The Highness) or other addresses that suitable for a king.

The second mechanism, the kingdom’s act was written by the poet from the first draft until the final draft. The poet that involved in the process of act writing can be only one poet or might be several poets, yet still in general act was written by only one poet. That procedure was a conclusion from writer from the words in the first paragraph of “Serat Niti Praja” that says, “by means want to take example from the poets and follows the intellectuals”. Based on that sentence, it proves that in the practice of state government in Mataram Kingdom, the making of act was usually under the service of the poets. After the final draft of the act was done, the next process was proposing the draft to the king for blessing or acceptance to be legalized as the kingdom’s rule/act.

#### **e. Regulation on Independent Judicial Institution**

in “Serat Niti Praja” that consists of 72 paragraphs or sentences, it was not found any norm that regulates on independent judicial institution. Judicial institution in Mataram Kingdom was became one with the kingdom/executive institution, it means that The King, Patih (Prime Minister), and Ministers also acted as judge in trial. Eventhough there weren’t any law norm that gave instruction to establish an independent judicial institution that separated from the executive, but the norm that orders justice and fair trial in the rocess of organizing the kingdom and establishing the law was clearly and briefly stated.

In paragraph 23 it was regulated that attorney in doing his duty must be careful in examining a case and considering many things before giving a fair sentence. The judge and attorney had duty to examine and solve a case fairly, carefully in finding law argument, and cannot wish for wealth in his job, cannot be too merciful, cannot accept bribery because these things will make the shine of the country extinguished.th citation of paragraph 23 as below

##### **Paragraph 23**

If you are believe in god, granted to be attorney by the King, act like a scales, then be careful in considering a problem, be firm and don’t change, do not wish for possessions, if the accused was wrong don’t loose to bribery, if loose then the country will be dull, don’t just be merciful to anything.

From five content materials in mdern constitution, Serat Niti Praja accomplishes four conditions of content materials of constitution. Those four conditions including: (1) regulation on the power limitation for statechief (President/King); (2) regulation on civil rights; (3) regulation on state institutions; and (4) regulation on the making process of written groundnorm/constitution. As writer has explain above, that a law document can be ualified as a constitution if it has fulfilled four content materials of constitution. By this way, the law documents in Serat Niti Praja from Kasunan Surakarta that had been written in the era of Sultan Agung (1613-1646) can be qualified as the Constitution of Kasunanan Surakarta. Yet, it must be remembered that the written groundnorm in the kingdoms era in Nusantara mostly not held in one law manuscript or document, but written in several law document. So, Serat Niti Praja is not the only law manuscript or document in Kasunanan Surakarta which its subsance is containing the content material of constitution. Constitution in small meaning is a compilation of legal rules *or written groundnorm*that compiled in one document or severl documents which content is regulating the state governance (italic by writer). While C.F. Strong defines constitution as “*Constitution is a collection of principles according to which the power of the government, the rights of the governed, and the relations between the two are adjusted.*”Constitution also can be formed as a collection of separated regulations (consists of several documents) and possesses specific authority as a constitutional law. similar opinion also delivered by K.C. Wheare, constitution in small context is a collection of legal regulations that compiled in one document or several documents which content is regulating the state governance.

#### **4. Conclusion**

Kingdoms in Nusantara in the past time were a country that the establishment is only as the will of the state powerholder (government), therefor an entity of a nation that ruled by many regulations and law, both written and unwritten that had managed to be rigid, clear, and complete. Adat law norm of constitution was meant in purpose for the state power organizer (government) do not arbitrailly in running the state power. Minangkabau Adat Act from Pagarruyung Kingdom and Serat Niti Praja from Kasunanan Surakarta contain four content materials of modern constitution. Those mentioned four content materials are: regulation on the power limitation for statechief, regulation on civil rights, regulation on state organization or institution, and regulation on the making process of written groundnorm/constitution. Content material of modern constitution that were not

regulated in Minangkabau Adat Act and Serat Niti Praja is regulation on an independent judicial institution. The judicial institutions in the era of Nusantara kingdoms mostly became one with the executive institution that led by king, but it didn't mean that the people at that time could not achieve justice. Justice is really affected by the integrity of the lawyer, not the independent judicial institution.

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