

DECLARATION PAGE

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

I hereby declare that the Undergraduate Thesis which is entitled “**THE POSITION OF ULTRA PETITA IN CONSTITUTIONAL COURT DECISION**” its content is truly the work of my own and I did not do plagiarism or quotation in ways that are inconsistent with the prevailing ethic in the scientific community. On this statement, I am ready to bear the risk/any sanctions imposed to me in accordance with applicable regulations, if in the future found a breach of scientific ethics, I am willing to accept the sanctions.

Written by

Name : Mohammad Hari Adipurna
Student Number : 20140610049
Faculty : Law
Major : International Program for Law and Sharia
University : Universitas Muhammadiyah Yogyakarta

Yogyakarta, August 22nd, 2018



Mohammad Hari Adipurna

MOTTO

“Life will knock us down, but we can choose whether or not to stand back up”

-Jackie Chan-

“A loser quits when they fails, a winner fails until they succeed”

-Zig Ziglar-

DEDICATION

This undergraduate Thesis is dedicated to

My Lord, Allah SWT
Prophet Muhammad SAW

My beloved parents
Drs. Bahruddin, M.H.
Siti Jamilah

My lovely sisters
Mala Allifni
Ade Syifa Nadhifa

FOREWORD

Alhamdulillah Walhamdulillah tsumma Alhamdulillah, thank you Allah SWT, The Most Merciful and Most Gracious who has given me His blessing and an opportunity to accomplish my Undergraduate Thesis as final work to fulfill the degree of Bachelor of Law entitled **THE POSITION OF *ULTRA PETITA* IN CONSTITUTIONAL COURT DECISION** at International Program for Law and Sharia, Fakultas Hukum, Universitas Muhammadiyah Yogyakarta.

First of all, I would like to express my most grateful to my parents Bapak Drs. Bahruddin, M.H. and Ibu Siti Jamilah and my sisters Mala Allifni and Ade Syifa Nadhifa for the prayer, support, guide and love.

Extraordinary thanks to both advisors Bapak Iwan Satriawan, S.H., MCL., Ph.D and Ibu Nanik Prasetyoningsih, S.H., M.Hum. who guided me with patient, wisdom and compassion.

My deepest gratitude to Bapak Nasrullah, S.H., S.Ag., MCL, Bapak Dr. Mukti Fajar ND, S.H., M.Hum, Bapak Dr. Khaeruddin Hamsin, Bapak M. Endriyo Susila, S.H., MCL and all the lecturers of Faculty of Law for their assistance and inspiration for my great future. Deepest appreciation is also addressed to all staff Faculty of Law especially to Ibu Qodriyah Isniyati, S.H for their assistance during my study at Faculty of Law Universitas Muhammadiyah Yogyakarta.

I would like to thanks to my best friends, Nurul Alia, Dean Adams, Widya Aulia, Hafizd Swandaru Prabowo, Kurnia Maharani Santoso Wardoyo, Nur Alfin,

Tenri Abang HS, Astri Istyawati, and beloved IPOLS Batch 2014. Special thanks also go to all IPOLianS for all prayers and supports.

Finally, I do expect the thesis will give benefit for readers and their future research.

Mohammad Hari Adipurna

TABLE OF CONTENTS

ABSTRACT	i
APPROVAL PAGE	ii
ENDORSEMENT PAGE	iii
DECLARATION PAGE	iv
MOTTO	v
DEDICATION	vi
FOREWORD	vii
TABLE OF CONTENT	ix
LIST OF STATUTES	xi
LIST OF ABBREVIATION	xii
CHAPTER ONE - INTRODUCTION	1
A. Background	1
B. Research Problem.....	6
C. Objective of Research	6
D. Benefit of Research	6
CHAPTER TWO – LITERATURE REVIEW	7
A. Brief Concept of <i>Ultra Petita</i> in the Constitutional Court Decision	7
B. Constitutional Court	10
CHAPTER THREE – RESEARCH METHOD	14
A. Type of Research.....	14

B. Type of Data.....	14
C. Data Collection.....	15
D. Data Analysis	16
CHAPTER FOUR – FINDING AND ANALYSIS.....	17
A. <i>Ultra Petita</i> Principle in the Constitutional Court.....	17
B. The Consequences of <i>Ultra Petita</i> Principle	20
1. Positive impact of <i>ultra petita</i> principle in the Constitutional Court decision..	21
2. Negative impact of <i>ultra petita</i> principle in the Constitutional Court decision.	24
C. The Position of <i>Ultra Petita</i> in Constitutional Court Decision	29
D. The Practice of Decision Making of <i>Ultra Petita</i> in the Constitutional Court.....	35
1. Analysis on Constitutional Court Decision No. 001-021-022/PUU-I/2003 on Constitutional Review on Law No. 20 of 2002 on the Electrification	39
a. Case No. 001/PUU-I/2003:.....	39
b. Case No. 021/PUU-I/2003:.....	42
c. Case No. 022/PUU-I/2003:.....	43
d. Justices Consideration.....	44
2. Analysis on Constitutional Court Decision No. 006/PUU-IV/2006 on Constitutional Review on Law No. 27 of 2004 on Truth and Reconciliation Commission.....	48
CHAPTER FIVE – CONCLUSION AND RECOMMENDATION	54
A. Conclusion.....	54
B. Recommendation.....	54
BIBLIOGRAPHY	

LIST OF STATUTES

International

Universal Declaration of Human Rights 1948

Indonesia

Indonesian 1945 Constitution

Law No. 20 of 2002 on Electrification

Law No. 24 of 2003 on Constitutional Court

Law No. 27 of 2004 on Truth and Reconciliation Commission

Law No. 8 of 2011 on Amendment of Law No. 24 of 2003 on Constitutional Court

LIST OF ABBREVIATION

UDHR	Universal Declaration of Human Rights
HIR	<i>Herzien Indlandsch Reglement</i>
RBg	<i>Rechtsreglement voor de Buitengewesten</i>
BPUPKI	<i>Badan Penyelidik Usaha-usaha Persiapan Kemerdekaan Indonesia</i>
APHI	<i>Asosiasi Penasehat Hukum dan Hak Asasi Manusia Indonesia</i>
PBHI	<i>Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesia</i>
IKPLN	<i>Ikatan Keluarga Pensiunan Listrik Negara</i>
ELSAM	<i>Lembaga Studi dan Advokasi Masyarakat</i>
Kontras	<i>Komisi untuk Orang Hilang dan Kekerasan</i>
SNB	<i>Solidaritas Nusa Bangsa</i>
Imparsial	<i>Inisiatif Masyarakat Partisipatif untuk Transisi Berkeadilan</i>
LPKP 65	<i>Lembaga Penelitian Korban Peristiwa 65</i>
LPR-KROB	<i>Lembaga Perjuangan Rehabilitasi Korban Rezim ORBA</i>