

IMPLEMENTATION AUTHORITY OF THE CONSTITUTIONAL COURT IN THE INDONESIAN CONSTITUTIONAL LAW SYSTEM

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Abstract

This study delves into the historical evolution and significance of Indonesia's Constitutional Court, focusing on its speculated super authority and independent interpretation of the Constitution. Rooted in the global context of judicial review, the research traces the court's pivotal role back to discussions during the Draft Constitution at BPUPKI and its prominence in the 1945 reform era. With the primary goal of providing a comprehensive understanding of the Constitutional Court's journey, the study sheds light on its distinctive authority and pivotal role within Indonesia's legal and constitutional framework. The research explores the court's exclusive jurisdiction, making its decisions final and binding and limiting legal recourse for dissatisfied parties. By examining the court's historical development and legal foundations, the study elucidates the Constitutional Court's role as a guardian of the constitution. The research reveals that the court's significance stems from its establishment as a constitutional guardian during the 1945 reform era, gaining prominence with the Third Amendment to the 1945 Constitution. The court's exclusive jurisdiction solidifies its position as a final arbiter in constitutional matters, shaping the legal landscape and restricting avenues for legal redress. In conclusion, the Constitutional Court has evolved into a central player in constitutional interpretation, wielding exclusive jurisdiction and serving as a final arbiter, emphasizing its unique authority and indispensable role in shaping Indonesia's legal and constitutional framework.

Keywords: Constitutional court, constitutional interpretation, Indonesia, judicial review, super authority

INTRODUCTION

Reviewing laws against the Constitution (UUD), determining the authority of state institutions granted authority by the Constitution (e.g., determining the dissolution of political parties), and resolving disputes over the results of general elections are all within the purview of the Constitutional Court's first and last level of adjudication, the decision of which is final. Two important aspects of the Indonesian System State administration are the power dynamics inside and across state institutions and the complex relationships between these institutions and the people they serve (Cumming et al., 2020). These dual aspects find their manifestation in the constitutional framework of the country. The constitution delineates the distribution of power among state entities and outlines the intricate web of relationships that exist both amongst these institutions and between the government and its citizens (Green, 2021). Through this constitutional lens, Indonesia establishes the foundation for the governance structure that shapes the interactions, responsibilities, and authority of its various components, ensuring a balanced and accountable System State administration (Salman Khan & Syrett, 2022).

As it exercises its power, the Constitutional Court works toward its stated goal: the preservation of the Constitution so that the principles of democracy and law can flourish and the people can live with honor in their nation and state. The Constitutional Court uses this vision as a compass to act responsibly and autonomously in carrying out its judicial duties as outlined in the Constitution (Chandranegara, 2019). But lately, Constitutional Court raises pros and cons in carrying out its mandate (Ramadhan & Haryanto, 2022). At the same time, looking back, it's Court of Constitutions A country's constitutional system is its governing body's codification of long-established norms and policies. All the powers granted by constitutional law are mirrored in a constitutional system. Among these responsibilities is the establishment of institutional roles, the division of authority, and the regulation of internal and external boundaries between positions and citizens (Voronov et al., 2019). These three functions are the formation, distribution and regulation of authority and the implementation of a constitutional system based on norms, constitutional rules, as well as the principles of constitutionalism and the rule of law in a constitution.

The authority of the Constitutional Court to regulate the mechanism for dissolving political parties. In Articles 68 to 73 paragraph (2) of Law no. 24 of 2003 concerning the Constitutional Court Law, it is determined that "the only party that can be a petitioner in a case regarding the dissolution of a political party is the government". So as a result, the Constitutional Court has authority over political parties by suspending or dissolving them through a judicial process after considering information from the party management concerned if they violate the regulations set out in political parties, such as the goals of political parties, obligations of political parties, and prohibitions on political parties (Siagian, 2020). The constitutional system regulated through the state constitution, in the form of a democratic political format or system as well as a system of separation of state powers and checks and balances cannot be separated from the principle and exercise of authority to test or examine legislative regulations (judicial review). In democratic countries in general, the presence of a constitutional review system is very well received. Not only among academics, but also among practitioners, even the judiciary itself is very enthusiastic about welcoming the constitutional review system, because with the existence of the constitutional review system, it is considered a way for the modern legal state to control and balance (check and balance) the power of the parties. civil and government officials who tend to be arbitrary (Perry, 1904).

In fact, the concept of judicial review itself can be seen as the result of modern developments in the system or management of democratic government which is based on the ideas of the rule of law, the principle of separation of powers, as well as the protection and promotion of human rights (the protection of fundamental rights). Judicial review basically it can only be carried out properly in a country that adheres to the supremacy of law and not the supremacy of parliament. In a country that adheres to a system of parliamentary supremacy, the implementation of the resulting legal products cannot be contested, because parliament is a form of representation of people's sovereignty.

RESEARCH METHOD

Since this study's problem pertains to the application of the Constitutional Court's authority in Indonesia's constitutional law system, as well as its philosophical, juridical, historical, and sociological foundations, a normative juridical approach was chosen as the research method. This research aims to present a detailed, systematic, and comprehensive image of the object to be studied—specifically, its relation to implementation within the jurisdiction of the Constitutional Court—through descriptive analysis, which is the specified method of analysis. Secondary data, or information culled from other sources like libraries, is what this study relies on. After collecting data for the research, it will be organized in a systematic way and analyzed qualitatively. This will help achieve the goals of the study

and provide clarity on how the Constitutional Court in Indonesia's system of constitutional law applies the data.

RESULTS AND DISCUSSION

Implementation of The Authority of The Constitutional Court in Indonesia

The implementation of judicial review which was pioneered by John Marshall had a very important influence on other countries in the world, including Indonesia with the establishment of the Indonesian Constitutional Court. Panjaitan, (2021) stated, that in the era of globalization, life in the Indonesian constitution experienced very fundamental and drastic changes, namely when the changes to the 1945 Constitution began, in 1999. According to Rahmatullah et al., (2022) statement, that the changes to the 1945 Constitution became a record in the history of the Indonesian constitution, because the constitutional foundations underwent drastic changes, almost covers various areas of life. Since 2001, officially the Third Amendment to the 1945 Constitution accepted the inclusion of the Constitutional Court in the Constitution. Mavedzenge, (2020) stated, it's concerning that the Constitutional Court in Indonesia is using its power in an unsavory way, causing harm to society through its judicial system. The Constitutional Court has the authority to conduct judicial reviews of laws, which has sparked social rivalry among law enforcement officials and other organizations that had faith in the court at first. "Be at least 40 (forty) years old or have/are currently holding positions elected through general elections including regional head elections," Chief Justice Anwar Usman said while reading the decision on Monday (16/10/2023) in the Plenary Courtroom, Constitutional Court, stating that the People's Consultative Assembly made fundamental changes to Article 169 letter q of Law Number 7 of 2017 concerning General Elections, which states, "at least 40 (forty) years of age." However, this interpretation is not legally binding and goes against the 1945 Constitution of the Republic of Indonesia. In light of this, the decision does not have any binding legal force. Establishment of the Constitutional Court occurred during the twentieth century, during the Plenary Meeting of the People's Consultative Assembly of the Republic of Indonesia, which decided to add the Third Amendment to the Republic of Indonesia's Constitution based on Article 24 paragraph (2) of 1945 and Article 24 C of the same document. Even before Indonesia gained its independence, many were thinking about how important a Constitutional Court would be to the country's constitutional history. It was during discussions on the proposed constitution at the Investigating Agency for Preparatory Efforts for Indonesian Independence (BPUPKI) that this debate first emerged (Nurwahyu, 2022). Even before the nation gained sovereignty, there was a recognition of the need for a dedicated institution to safeguard the constitution and uphold its principles. The discussions within the BPUPKI underscored the foresight of Indonesian constitutional framers in envisioning an entity tasked with interpreting and adjudicating matters related to the constitution. Simonetti, (2023) stated, this early recognition highlights the foundational importance accorded to the rule of law and the protection of constitutional principles, ultimately paving the way for the establishment of Indonesia's Constitutional Court in the post-independence era.

The notion of the necessity for judicial review, particularly concerning the Constitution, resurfaced prominently during deliberations on the Draft Law on Judicial Power. This discourse culminated in the enactment of Law Number 14 of 1970, delineating the Principles of Judicial Power in Indonesia. Warraich et al. (2023) stated, that the discussions surrounding this legislative initiative underscored the recognition of the judiciary as a crucial check on the constitutionality of laws and governmental actions. The establishment of a framework for judicial review within the legal system marked a pivotal moment in Indonesian legal history. Law Number 14 of 1970 laid the foundation for the judiciary to play a proactive role in safeguarding the constitutional order by providing a mechanism for the assessment and adjudication of legal and constitutional issues, solidifying the commitment to the rule of law within the Indonesian legal landscape.

During the reform era, when the 1945 Constitution was being discussed for amendments, opinions about the Constitutional Court's significance resurfaced. As a result of reform-era amendments to the 1945 Constitution, the People's Consultative Assembly is no longer the highest and most authoritative body in the country; rather, that role has shifted from the People's Consultative Assembly to the constitution itself (Agustian et al., 2020). This fundamental change requires institutional and constitutional mechanisms as well as the presence of state institutions that overcome possible disputes between state institutions which have now become equal and balance and control each other (checks and balances).

Philosophical, Juridical, Historical and Sociological Basis for the Implementation of the Authority of the Constitutional Court

When it comes to enforcing laws and fairness, the Constitutional Court is a totally autonomous and powerful judicial body. It is fitting to refer to the Constitutional Court as the "guardian of the constitution" because it was established with the express purpose of enforcing the Constitution as the supreme law of the land (Wijaya & Nasran, 2021). Accordingly, the Constitutional Court's role here is that of an independent court with the same authority to enforce laws as the Supreme Court. within the framework of Indonesia's constitution. Nurhayati, (2022) stated, it was decided by the Supreme Court Sole Interpreter of the Constitution is another name for the Constitutional Court since in addition to exercising its authority and initiating judicial review and interpretation of the constitution, the court itself interprets the document. The Constitutional Court is the only body with the power to interpret the Constitution. Despite its independence, it is nonetheless responsible for protecting national sovereignty and upholding the court's honor and authority. Many aspects of adjudication cause controversy because of his arbitrary use of power and position, carrying out his authority without thinking about, interpreting, or testing laws and regulations; this is true not only because he is the first and last arbiter of legal disputes, but also because he decides based on the interests and desires of a small number of groups. current ones, particularly with regard to the political bodies that evaluate their wares (Aul, 2019).

The Constitutional Court in the Indonesian constitutional system holds a distinct position as a state institution entrusted with the execution of judicial functions, specifically tailored to address constitutional cases. Rodiyah et al., (2023) stated, unlike serving the interests of a privileged few, the court is designed to operate impartially, upholding principles of fairness and justice. Its competence lies in interpreting and adjudicating matters related to the constitution, ensuring that its decisions are grounded in the broader interests of the nation rather than catering to the preferences of specific groups. By focusing on constitutional issues, the Constitutional Court plays a pivotal role in maintaining the integrity of the constitutional order and promoting equal justice for all citizens, thereby reinforcing the commitment to a fair and inclusive legal system in Indonesia.

The existence of the Constitutional Court is interpreted as a guardian in the implementation of constitutional law to strengthen the foundations of constitutionalism in the 1945 Constitution. Therefore, the Constitutional Court can decide on all areas of law with clear, accurate and efficient boundaries in a conscious state without coercion or coercion but as a form of respect for constitutionalism. Faiz et al., (2023) stated, that the limits of the implementation of its authority which is a right and is owned by the Constitutional Court as a judicial institution is a form of implementing a constitutional system for the balance of power between state institutions (checks and balances). By going through or using basic guidelines from legislation in the 1945 constitution.

Examining it from the perspective of authority, the Constitutional Court emerges as a key player within the judicial power structure, entrusted with the crucial role of reinstating the judiciary's image in Indonesia. Sari et al., (2023) stated, that the court is envisioned as a force capable of reestablishing the judiciary's standing as an independent and absolute authority, fostering trust in its ability to administer law enforcement and justice throughout the country. By emphasizing independence and reliability, the Constitutional Court aims to contribute to the overall integrity of the judicial system in Indonesia. This expectation aligns with the broader goal of ensuring that the judiciary is perceived as a steadfast and trustworthy institution, essential for upholding the rule of law and safeguarding the principles of justice across the nation.

The philosophical basis of several authorities that have been implemented by the Constitutional Court and the obligations that have been complied with, means that the Constitutional Court is a form of substantive justice and the principles of good governance. Apart from that, several legal theories also strengthen the existence of the Constitutional Court as a state institution that oversees the course or circulation of the law of justice and is the highest interpreter of the constitution. Tierney, (2022) stated, that the existence or presence of the Constitutional Court and all the results of its implementation in terms of its authority and obligations, is considered to have changed the doctrine of parliamentary supremacy and replaced it with the doctrine of constitutional supremacy. Substantive justice or material justice (substantive justice) is al qist or part of something that is reasonable and appropriate, or appropriate and does not provide direction to equality, but only something that is good and also an appropriate part, there is no personal or group interest and remains side with the right. In implementing and implementing substantive justice, if an incident or reality is like this, the philosophy is like this, then the right party will win according to the evidence of its truth, not the other way around, namely forcing the will of the law by deciding that the wrong party will instead be the winner through the evidence inaccurate or inaccurate evidence (Talli et al., 2023).

State sovereignty theory, constitutional theory, democratic rule of law theory, welfare theory, justice theory, and legal certainty theory are some of the theories that have laid the groundwork for the significance of constitutional reform and for the exercise of the power, responsibility, and prestige of the Constitutional Court (Alemparte, 2022). Article 24C, Article 78, and Article 7A of the 1945 Constitution establish the Constitutional Court's legal basis, which is further developed in Law 24 of 2003. Suartha et al., (2020) stated, the people, indigenous community units (while they may be alive), businesses, nonprofits, state agencies, political parties, or even the government and the People's Representative Council can petition the Constitutional Court if their constitutional rights and/or authority are violated.

The new state institution is the Constitutional Court because it is a new state institution in the Indonesian constitutional system. Muslihuiddin & Bahtiar, (2020) stated, this the outcomes of amendments to the Republic of Indonesia's 1945 Constitution provide the necessary evidence for this to be seen and examined. the formation of which is a result of ineffective state administration, particularly during the New Order period—a time characterized by widespread corruption, collusion, and nepotism up until the present day, and the subsequent rejection of the principles of legal justice has become an influential factor in the transformation of numerous domains, particularly the judicial system. The Constitutional Court is established by its rulings as an organ of the constitution, tasked with protecting and interpreting fundamental legislation. This is where the Constitutional Court endeavors to fulfill its constitutional mandate: preserving the constitution to bring about a democratic society based on the rule of law, with the ultimate goal of establishing a great, dignified, honorable, and authoritative national and state life. (Yusa et al., 2020).

In this overarching vision, the Constitutional Court assumes a pivotal role by offering clear directives for the exercise of its independent and responsible judicial power, aligning with the mandates set forth in the 1945 Constitution of the Republic of Indonesia. Functioning as a beacon of legal guidance, the Constitutional Court operates with a commitment to upholding constitutional principles and ensuring justice. According to Usman, (2020) that notably, the court remains accessible to individuals who perceive a violation of their rights and constitutional authority stemming from the implementation of a particular law. This openness signifies the court's dedication to serving as a venue for the redress of grievances, allowing citizens to petition the court when they believe their rights have been compromised. By maintaining this accessible and responsive stance, the Constitutional Court reinforces its commitment to fostering a legal system that is not only in accordance with constitutional mandates but also responsive to the concerns and rights of the Indonesian people (Sibarani, 2023).

CONCLUSION

The results show that the Constitutional Court in Indonesia has to follow the rules laid out in the Constitution of 1945. Because the law is meant for everyone, not only officials, decisions about laws should not be made hastily depending on how good or true they seem. When considering the origins of the Constitutional Court, it is important to keep in mind the complex web of relationships between judicial review and investigations into philosophy, law, and history. In the framework of the 1945 Constitution, a number of noteworthy historical events deserve attention: the American Madison vs. Marbury case, the Austrian principles put forth by Hans Kelsen, Mohammad Yamin's theories put forth during the BPUPKI trial, and the PAH I MPR argument that took place during that trial. The Constitutional Court was initially given authority by the Supreme Court and was required to be established by August 17, 2003, according to Article 3 of the 1945 Constitution's Transitional Regulations. Afterwards, the Constitutional Court was established on August 13, 2003, by Law No. 24 of 2003. Constitutional judges were nominated on August 16, 2003, and their term of office began on August 19, 2003. Without being named the highest or superior state institution, the Constitutional Court maintains its unique position as a new state entity, treated equally with other institutions. In addition, the Constitutional Court is vital in making sure that the state and its inhabitants adhere to the constitution by monitoring how it is put into practice.

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