

Implementation Authority Of The Constitutional Court In The Indonesian Constitutional Law System

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ABSTRACT

This study explores the evolution and significance of the Constitutional Court in Indonesia, examining its speculated super authority and unilateral interpretation of the Constitution. The research delves into the court's exclusive jurisdiction, rendering its decisions final and binding, thereby limiting legal recourse for dissatisfied parties. Grounded in the global development of judicial review, notably the landmark Marbury versus Madison case by John Marshall, the Constitutional Court's role is integral to constitutional interpretation. Originating from discussions during the Draft Constitution at BPUPKI and resurfacing during deliberations on the Draft Law on Judicial Power (UU Number 14 of 1970), the importance of the Constitutional Court gained prominence during the 1945 reform era. The Third Amendment to the 1945 Constitution solidified the court's establishment as a guardian of the constitution, shaping its pivotal role in constitutional interpretation in Indonesia. This research aims to provide a comprehensive understanding of the Constitutional Court's journey, its unique authority, and its crucial role in the country's legal and constitutional landscape

Keywords:

Constitutional Court;
Constitutional
Interpretation;
Indonesia; Judicial
Review; Super
Authority.

INTRODUCTION

The authority of the Constitutional Court to adjudicate at the first and last level whose decision is final is to review laws against the Constitution (UUD), decide on the authority of state institutions whose authority is granted by the Constitution, such as deciding on the dissolution of political parties, and decide disputes about the results of general elections. The administration of the System State in Indonesia encompasses two crucial facets: the first involves the power dynamics within state institutions and their interrelations, while the second pertains to the intricate connections between these institutions and the citizens 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).

Constitutional duties in implementing its authority, Constitutional Courtstrives to realize its institutional vision, namely the upholding of the constitution in order to realize the ideals of a rule of law and democracy for the dignified life of the nation and state. This vision becomes a guide or interpretation for Constitutional Courtin exercising judicial power independently and responsibly in accordance with the mandate of the constitution (Chandranegara, 2019). But lately, Constitutional Court raises pros and cons in carrying out its mandate (Ramadhan & Haryanto, 2022). Meanwhile, when you look back, it's deep Constitutional Court A constitution is a system of laws, traditions

and conventions which then create a constitutional or constitutional system of a country. A constitutional system reflects the functions contained in constitutional law. These functions include establishing institutional functions, dividing authority, and implementing regulations regarding boundaries between positions and each other, as well as the relationship 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.

METHOD

The research method used in this research is a normative juridical approach, because the problem to be studied is related to the implementation of the authority of the Constitutional Court and the philosophical, juridical, historical and sociological bases regarding the implementation of the authority of the Constitutional Court in the Indonesian constitutional law system. The specifications of this research are descriptive analysis, because it is hoped that it will be able to provide a detailed, systematic and comprehensive picture of the object to be studied, namely its relation to implementation within the authority of the Constitutional Court. The data used in this research is secondary data, namely data obtained from library materials. The data obtained in the research will then be analyzed qualitatively, namely the data that will

be obtained will then be arranged systematically which will then be analyzed qualitatively to achieve targets and clarity regarding implementation within the authority of the Constitutional Court in the Indonesian constitutional law system.

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, that the Constitutional Court in this new era implements its authority in a way that is undesirable and creates co-troferity towards society in its system of judicial power in Indonesia. Several groups that initially believed in the Constitutional Court eventually aroused social jealousy by law enforcers, such as the issue of judicial review of laws, which can now be carried out by the Constitutional Court. 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' is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force, as long as it is not interpreted "be at least 40 (forty) years old or have/are currently holding positions elected through general elections including regional head elections," said Chief Justice of the Constitutional Court Anwar Usman reading the decision on Monday (16/10/2023) in the Plenary Courtroom, Constitutional Court. Constitutional Court. formed in the modern era of the 20th century, when the Third Amendment to the Constitution of the Republic of Indonesia, based on Article 24 paragraph (2) of 1945 in conjunction with Article 24 C of the Constitution of the Republic of Indonesia, was decided at the Plenary Meeting of the People's Consultative Assembly of the Republic of Indonesia.

Contemplation on the significance of a Constitutional Court in Indonesia's constitutional history predates its independence. The genesis of this discourse can be traced back to the deliberations on the draft Constitution conducted at the Investigating Agency for Preparatory Efforts for Indonesian Independence (BPUPKI) (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.

When discussing changes to the 1945 Constitution in the reform era, opinions regarding the importance of the Constitutional Court re-emerged. The changes to the 1945 Constitution that occurred in the reform era have resulted in the People's Consultative Assembly no longer having the position of supreme and supremacist state institution, but shifting from the supremacy of the People's Consultative Assembly to the supremacy of the constitution (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

The Constitutional Court is an independent and absolute judicial authority in administering justice to uphold law and justice. The Constitutional Court was formed to implement its authority to guarantee that the constitution as the highest law can be enforced, so that the Constitutional Court is called the guardian of the constitution (Wijaya & Nasran, 2021). So in this position the Constitutional Court is a law enforcer at the same level or equivalent to the Supreme Court in the form of independent judicial power. In the Indonesian constitutional system, Nurhayati, (2022) stated, that the Constitutional Court in terms of implementing its authority, triggering the interpretation or judicial review of the constitution, the Constitutional Court also interprets the constitution, so that the Constitutional Court is also called the Sole Interpreter of the Constitution. So the Constitutional Court is the sole interpretive institution of the Constitution, but even though the Constitutional Court is as independent as possible, it is still obliged to safeguard the sovereignty of the nation, maintain the honor and authority of the Constitutional Court itself. Not just because he is the first and last enforcer of the law, then decides according to the interests and wishes of a few groups, there are many things in adjudicating that give rise to controversy due to his arbitrariness of power and position, implementing his authority, without considering, interpreting, testing laws and regulations. existing ones, especially towards legislative institutions where their products are reviewed (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).

There are several theories that have become the basis for the importance of constitutional reform and become the basis for implementing the authority and obligations, authority and honor of the Constitutional Court, including the theory of state sovereignty, constitutional theory, democratic rule of law theory, welfare theory, justice theory, and legal certainty theory (Alemparte, 2022). The juridical basis of the Constitutional Court implements its authority from the origins of the 1945 Constitution, which is regulated in Article 7A, Article 78 and Article 24C and is elaborated in Law

Number 24 of 2003. Suartha et al., (2020) stated, that individuals, indigenous community units as long as they are still alive, public or private legal entities, state institutions, political parties, or the government and the People's Representative Council, if their constitutional rights and/or authority are impaired, can submit a petition to the Constitutional Court.

The new state institution is the Constitutional Court because it is a new state institution in the Indonesian constitutional system. Muslihuddin & Bahtiar, (2020) stated, this is seen and studied from the results of changes to the 1945 Constitution of the Republic of Indonesia. which was formed due to poor state administration, especially during the New Order era, which was marked by rampant corruption, collusion and nepotism, Markus (case broker) until now, and the abandonment of the values of legal justice has become a factor in making changes in various fields, especially the justice system. As a constitutional organ, to be the guardian and interpreter of basic laws, the Constitutional Court is designed through its decisions. To implement or carry out the duties of its constitutional authority, this is where the Constitutional Court tries and strives to realize its institutional vision, namely maintaining the upholding of the constitution in order to realize the ideals of a rule of law and democracy for the sake of a great national and state life that is dignified, honorable and authoritative (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

Implementation of the Constitutional Court Mimang should act in accordance with mandate of the 1945 Constitution of the Republic of Indonesia. You should not immediately decide on a law just by looking at its benefits and truth, because the law is for all people, not just for officials. Looking back again, the formation of the Constitutional Court cannot be separated from the philosophical, juridical and historical exploration of the concepts and facts regarding judicial review. There are four historical events that are worth paying attention to, including; the case of Madison vs Marbury in the US, Hans Kelsen's ideas in Austria, Mohammad Yamin's ideas at the BPUPKI trial, and the PAH I MPR debate during the trial in the context of amending the 1945 Constitution. Based on article 3 of the Transitional Regulations of the 1945 Constitution of the Republic of Indonesia which ordered the formation of the Court Constitution no later than 17 August 2003 and before it is formed, its authority is exercised by the Supreme Court. On 13 August 2003, Law Number 24 of 2003, concerning the Constitutional Court was passed, then on 16 August 2003, the

constitutional judges were appointed and started working effectively on 19 August 2003. So, the position of the Constitutional Court is a new state institution formed by the constitution is given an equal position with other institutions, without considering any qualifications as the highest or superior state institution. The Constitutional Court also has the function of overseeing the constitution so that it is implemented and respected by both administrators of state power and citizens.

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