

## THE ROLE OF THE CONSTITUTIONAL COURT IN MAINTAINING THE STABILITY OF THE CONSTITUTIONAL SYSTEM



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**Abstract.** The Constitutional Court (MK) is pivotal in preserving the stability of Indonesia's constitutional framework by ensuring that laws and regulations align with the 1945 Constitution. The Constitutional Court, as a constitutional guardian institution, is responsible for evaluating laws, adjudicating power conflicts among state entities, dissolving political parties, and resolving electoral disputes. The role of the Constitutional Court is becoming increasingly vital in preserving the equilibrium of power among the administrative, legislative, and judicial branches, as well as in averting governmental overreach. Nonetheless, in its execution, the Constitutional Court has numerous problems, including political pressure, ambiguity in the enforcement of rulings, and discussions on the scope of its jurisdiction. Consequently, strategic measures are required to enhance decision-making consistency, reinforce the execution of the Constitutional Court's rulings, and preserve the autonomy of this institution from political interference. Furthermore, improving transparency in the decision-making process and fostering public engagement in comprehending the role of the Constitutional Court are essential for fortifying the rule of law and democracy in Indonesia.

**Keywords:** Constitutional Court, constitutional stability,

### A. Introduction

The Constitutional Court (MK) is essential for the Indonesian legal framework, particularly following the amendments to the 1945 Constitution. The Constitutional Court, the judicial entity designated to assess legal conformity, guarantees that legislative results align with the fundamental principles of the 1945 Constitution. Consequently, the Constitutional Court serves as a protector of the constitution, ensuring the constitutional rights of citizens and promoting social justice. As democracy advances in Indonesia, the significance of the Constitutional Court has grown markedly. The Constitutional Court plays a crucial role in coordinating the administration of government institutions. Every decision of the Constitutional Court possesses legal authority and, consequently, must be adhered to. The Constitutional Court serves as a guardian of the constitution. The Constitutional Court maintains law and justice within the nation..<sup>1</sup>

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<sup>1</sup> Mahfud M.D, 2009, The Position and Function of the Constitutional Court in the Constitutional System of the Republic of Indonesia, p. 11

The authority of the Constitutional Court to annul or modify legislation is substantial. Indonesian legislation permits the Constitutional Court to assess laws inconsistent with the 1945 Constitution. The authority of the Constitutional Court to evaluate legislation remains contentious. Some contend that the Constitutional Court is limited to annulling statutes and regulations under the 1945 Constitution, without the authority to alter their essence. Some assert that the Constitutional Court possesses the authority to amend laws and regulations to uphold the constitution..<sup>2</sup>

We frequently encounter terminology associated with systems in numerous facets of life. We possess an extensive comprehension of diverse systems, encompassing state, governmental, and political systems, while also applying our experience to practical fields such as information systems and mechatronic systems. The phrases refer to the interrelated elements of the subsystem that form a unified system composed of associated subsystems. Systems necessitate coordination, collaboration, and continuity among diverse subsystems.

Under the Indonesian constitution, the Government Regulation in lieu of Law (Perppu) serves as a distinctive and strategic legal mechanism. According to Article 22 of the 1945 Constitution, the Perppu permits the President to enact "urgent" laws and regulations. The creation and use of the idea of "compelling urgency" is frequently examined by scholars, legal professionals, and pertinent government entities. The power to issue Perppu, as stipulated in the 1945 Constitution, is fundamentally designed to provide the President with the agility to address circumstances necessitating swift legal measures that cannot await the conventional legislative procedure via the House of Representatives (DPR). Emergencies, such as challenges to national sovereignty, natural disasters, or challenging economic situations, frequently justify the issuance of Perppu. The definition of "compelling urgency" is often ambiguous and subjective, leading to considerable discourse on the precise timing and methodology for issuing the Perppu.

The Constitutional Court (MK), as the custodian of the constitution, has jurisdiction to evaluate the Perppu promulgated by the President. The Court's ruling on the Perppu has offered a more thorough interpretation of the "compelling urgency" criterion, constraining the President's power to issue the Perppu..<sup>3</sup>

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<sup>2</sup> Muhammad Daffa Fadhillah, Ridham Priskap, B. (2024). Juridical Analysis of the Constitutional Court's Decision Regarding the Age Limit for Candidacy of the President and Vice President. 4, 331

<sup>3</sup> Friday, 2024, THE EFFECT OF THE CONSTITUTIONAL COURT'S DECISION ON THE PRESIDENT'S AUTHORITY IN THE FORMATION OF GOVERNMENT REGULATIONS IN LIEU OF LAWS.

Upholding the notion of checks and balances is challenging, yet it is crucial for the stability of the Indonesian government. The Constitutional Court equilibrates governmental entities, including the legislature, executive, and judiciary, by evaluating legislation and adjudicating disputes. The Constitutional Court assesses legislation ratified by the House of Representatives to avert party hegemony and ensure constitutional compliance. In the event of a disagreement between the House of Representatives and the President on the interpretation or application of the law, the Constitutional Court has the authority to render a definitive decision..<sup>4</sup> Thus, maintaining democracy and stopping abuse of authority is highly dependent on good communication between the Constitutional Court and other government agencies.

Political and external pressures frequently challenge the Constitutional Court's autonomy and fortitude. Effective and democratic governance relies on its ability to uphold the principles of regulation and the equilibrium of authority. Consequently, assessing the Constitutional Court's function in law enforcement and the equilibrium of power is crucial.

## **B. Methods**

This study employs a normative legal methodology to examine Indonesian laws and regulations, specifically concerning the Constitutional Court's role in national stability. A descriptive analysis provides a comprehensive overview.

This qualitative study employs literature reviews. This study commenced with data sourced from pertinent libraries. The statistics are classified according to journal publishing. The gathered data will be assessed and cited, and the research findings will be provided in the conclusion section. Summarizing and analyzing the facts will facilitate the derivation of conclusions on the topic.

## **C. Results And Discussion**

### **The Role of the Constitutional Court in Maintaining the Stability of the Constitutional System**

Enhancing governmental operational efficiency is undoubtedly a formidable endeavor. Moreover, uneven regulations and a deficiency in legal clarity, among other considerations, alone substantiate this. Effective governance relies on compliance with the rule of law and robust principles maintained by its enforcers, as delineated in laws and regulations,

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<sup>4</sup> Adi Putra, 2024, The Role of the Constitutional Court in Maintaining the Balance of Power in the Indonesian Government System, VOL 18

guaranteeing that governance aligns with the optimal legal framework.

The Constitutional Court of Indonesia is the primary entity empowered to uphold the law. It reviews, adjudicates, and resolves all cases and is obligated to adjudicate all cases pertaining to law enforcement.<sup>5</sup> In Indonesia, the Constitutional Court has significant authority to ensure the integrity of law enforcement.

The Constitutional Court has the authority to examine or annul laws and regulations that contravene legal statutes and human rights, ensuring legal stability in Indonesia. The Constitutional Court has previously undertaken this action. Illustration: The Constitutional Court annulled specific provisions of Law Number 1 of 1974 regarding Marriage. The Constitutional Court invalidated multiple elements of the Law due to the potential for human rights infringements upon its passage. The Constitutional Court subsequently annulled the provision to safeguard Human Rights, which are essential and inalienable rights intrinsic to every individual.

The Constitutional Court retains significant power. Indonesia's legal framework will be substantially enhanced if it wields its authority effectively. Article 10 of Law Number 24 of 2003 about the Constitutional Court delineates this authority. (1) The Constitutional Court possesses the jurisdiction to adjudicate as both a court of first and last instance, with its decisions being definitive for: Evaluating laws and regulations on the 1945 Constitution of the Republic of Indonesia; Resolving disputes concerning the authority of state institutions; Dissolve political parties; and Resolve disputes regarding election outcomes. (2) The Constitutional Court adjudicates whether the House of Representatives believes that the President and/or Vice President has perpetrated treason against the state, engaged in corruption, bribery, other grave criminal offenses, or reprehensible conduct, and/or fails to adhere to the 1945 Constitution of the Republic of Indonesia. (3) The stipulations mentioned in paragraph (2) are as follows: The nation's security may be jeopardized by treachery. The legislation forbids corruption and bribery. The maximum incarceration term for other grave offenses is five years. A contemptible action that belittles the President and Vice President. No longer eligible to serve as President or Vice President under Article 6 of the 1945 Constitution.

### **Democracy Watchdog**

The presence of the Constitutional Court is crucial in Indonesia's constitutional judiciary. This institution is responsible for upholding the constitution and addressing various

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<sup>5</sup> Deaz Aji Pratama Kuswan Hadji, 2024, 'The Role Of The Constitutional Court In The Enforcement Of Constitutional Law', vol. 3. No. 4, p. 4

constitutional issues. Article 24 of the 1945 Constitution governs the judiciary. This essay asserts that law and justice necessitate judicial independence. This indicates that the Indonesian judiciary must uphold human rights, the constitution, and legal justice independently from the executive and legislative branches.

The Constitutional Court affirmed constitutional supremacy under the 1945 Constitution. This task involves analyzing governmental statutes and regulations to guarantee compliance with the 1945 Constitution and its foundational concepts. Article 24C, paragraphs (1) and (2), of the 1945 Constitution empower the Constitutional Court to adjudicate disputes regarding the authority of governmental institutions. The Court adjudicates electoral disputes, safeguards electoral integrity, and fosters democratic processes in elections. The Constitutional Court adjudicated the case about the dissolution of legitimate and constitutional political parties. The Constitutional Court adjudicates alleged treason, corruption, bribery, or other substantial offenses that may compromise the eligibility of the President or Vice President under the 1945 Constitution. The Constitutional Court of Indonesia maintains the integrity of the government and promotes good governance. An autonomous court and implementing constitutional principles enhance Indonesia's democracy, human rights, and justice. The public disagreement involves the Constitutional Court's evaluation of constitutional law in the context of the February 2024 democracy party preparations. The Constitutional Court safeguards democracy, the constitution, and citizens' rights. The Constitutional Court has assessed multiple legal petitions concerning Article 169, letter q of Law Number 7 of 2017, which governs the minimum age requirement for presidential and vice presidential candidates.

In Case Number 29/PUU-XXI/2023 and Case Number 51, the petitioners sought the reinstatement of the minimum age restriction of 35 years, consistent with the prior Presidential Election Law. The petitioners contend that Article 169, letter q, is discriminatory, unscientific, and inconsistent with the objectives of the 1945 Constitution..<sup>6</sup>. The Constitutional Court (MK) dismissed the application owing to numerous objections. Decision Number 90/PUU-XXI/2023, which addresses the applicants' desire to abolish the 40-year age limit for Presidential and Vice Presidential Candidates who are regional leaders, was discussed.

After numerous disputes, the Constitutional Court ultimately approved the petition. This ruling elicited widespread apprehension regarding the Constitutional Court's consistency in upholding the constitution. This study underscores the importance of the consistency, quality, and clarity of the Constitutional Court justices' interpretations of the constitution. The

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<sup>6</sup> Rohmah, E. I., & Ilmiyah, Z., 2024. Dynamics of the Constitutional Court Decision Number 90/PUU-XXI/2023 concerning the Age Requirements of Presidential and Vice Presidential Candidates, 101–103.

Constitutional Court must maintain its status as the protector of the constitution and individual rights in its fundamental responsibilities. The public and stakeholders anticipate that the Constitutional Court will uphold the constitution with integrity and consistency under the law and justice. This article analyzes Constitutional Court Decision Number 90/PUU-XXI/2023, particularly concerning the age restrictions for presidential and vice presidential candidates.

### **Obstacles in the Implementation of Constitutional Court Decisions**

The Constitutional Court can maintain constitutional integrity and the equilibrium of power; nonetheless, the decision-making process is the most challenging aspect. Numerous legislative and executive entities condemned the Constitutional Court's verdict, occasionally disregarding or repudiating it. Political pressure or foreign interests that affect the policies or decisions of the Constitutional Court exacerbate the situation.

The Head of the Constitutional Court's Legal and Administrative Bureau, Clerk Fajar Laksono, articulated that, after consulting many stakeholders, it consistently endeavors to maintain impartiality in its rulings. Nevertheless, the genuine challenge emerges when one must make these decisions. He stated that the Constitutional Court did not operate independently when the verdict reached the implementation phase. At this juncture, numerous interests emerged, including legislative modifications shaped by various stakeholders. The execution of the Constitutional Court's ruling relies on the collaboration and support of other state institutions, indicating that it is not entirely within the jurisdiction of these entities.

The theory of political pressure suggests that the Constitutional Court may encounter political influence. This intervention examines the factors that render specific rulings of the Constitutional Court political. Despite the Constitutional Court's unequivocal ruling, certain factions resisted or postponed its execution. Political or bureaucratic interests occasionally obstruct advancement in executing decisions impacting legislation or regulations. A prevalent challenge for the Constitutional Court is interference in public policy.

As Selamat Sentosa Hasibuan (2024) notes, a primary issue pertains to the extent of the constitutional court's engagement in public policy. Hasibuan emphasized that the Constitutional Court's decisions on matters not about the constitution generate ambiguity. Under these situations, the Constitutional Court faces the challenging task of determining the scope of its acts, which typically incites more discourse. This situation illustrates the challenges associated with executing the Constitutional Court's ruling. This organization possesses the authority to annul unconstitutional laws and regulations, contingent upon the cooperation of other governmental bodies. The efficacy and legitimacy of the Constitutional Court are

contingent upon the political and legal environment that undergirds its rulings.

## **D.CONCLUSION**

The Constitutional Court (MK) aids Indonesia in preserving constitutional stability by verifying that all laws and regulations comply with the 1945 Constitution. As the guardian of the Constitution, the Constitutional Court evaluates legislation, adjudicates conflicts over the jurisdiction of state entities, disbands political parties, and adjudicates issues about electoral outcomes. The Constitutional Court preserves the equilibrium of power and prevents governmental overreach.

The Constitutional Court encounters numerous hurdles in executing its rulings, including political pressure, impediments to enforcement, and divergent interpretations of the scope of its jurisdiction. Numerous Constitutional Court rulings have sparked discussion within the community, highlighting the necessity for consistency and transparency in all decisions.

The Constitutional Court must maintain independence, transparency, and consistency for optimal efficacy. The government, legislature, and community must endorse the Constitutional Court's ruling for broad implementation to enhance Indonesia's legal system and democracy.

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