

# **The Role Of The Constitutional Court In Maintaining The Values Of Constitutionalism In The Era Of Modern Dynamics**

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## **Abstract**

The Constitutional Court plays a crucial role in upholding the constitution and protecting the values of constitutionalism within the Indonesian state system. With the evolving social, political, and technological dynamics of the modern era, the Constitutional Court's role faces increasingly comprehensive challenges. Issues such as political intervention, legal populism, and the digitization of the judicial process require the Constitutional Court to remain consistent in upholding the principles of constitutionalism and the rule of law. This study aims to determine and analyze the role of the Constitutional Court in the midst of changing times, and to determine the consistency of the Constitutional Court's decisions in implementing principles, the rule of law, checks and balances, and the protection of citizens' constitutional rights. This research employs a normative juridical research method, employing legislative, conceptual, and case study approaches. The findings demonstrate that the Constitutional Court has played a crucial role in strengthening constitutional values through progressive interpretations of the constitution. In the modern era, the Constitutional Court's primary weakness lies in maintaining a balance between social activism and constitutional prudence (juridical restraint).

**Keywords:** Constitutional Court, Constitutionalism, Modern Dynamics

## **A. Introduction**

In Indonesia's constitutional system, the Constitutional Court (MK) plays a vital role as the guardian of the constitution. Historically, this institution was established following the amendments to the 1945 Constitution of the Republic of Indonesia (UUD 1945), reflecting the country's commitment to the principles of the rule of law and constitutional democracy. The Constitutional Court's existence aims to ensure that all laws and regulations are within the constitutional framework and do not conflict with citizens' constitutional rights. The principle of constitutionalism is the primary foundation for the governance of a democratic state based on the rule of law. In Indonesia's system, this principle is upheld through the supremacy of the constitution, separation of powers, protection of human rights, and the existence of institutions

tasked with ensuring all government actions comply with the constitution. The Constitutional Court was established as a constitutional institution with the primary authority to review laws against the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). Based on this authority, the Court provides the final decision to ensure that all laws and state practices do not deviate from constitutional norms.<sup>1</sup>

The Constitutional Court plays a crucial role in the Indonesian government system, as it acts as the executor of judicial power. Constitutional courts are established in every country, but their backgrounds typically vary. Constitutional Court judges are members of the legislature, and their decisions are enacted in the form of laws. Under the Indonesian system, the judiciary is an independent body tasked with upholding justice. Indonesia adopts a civil law system, meaning judicial power extends beyond written law to unwritten law.<sup>2</sup>

With the establishment of the Constitutional Court (MK) following the political transition, the development of national law is inextricably linked to the Constitutional Court's jurisprudence. This phenomenon is inextricably linked to the impact of the third wave of democracy in various countries, including Asia. The role of judicial review, institutionalized through the Constitutional Court, exists as an effort to reconstruct the principles of constitutionalism, including the formation of state law (lawmaking).<sup>3</sup>

Social and political developments and technological advances in the modern era present new challenges for constitutional institutions. The phenomenon of legal populism and political pressure that exploits public issues for political gain can push the legitimacy of court decisions into the realm of public opinion and the media, requiring the Constitutional Court to maintain its independence and credibility in decision-making. Furthermore, the digital transformation of the judicial process, including electronic records management, electronic filing of documents, and public information services, brings opportunities and risks related to the accessibility,

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<sup>1</sup> Amen.

<sup>2</sup> Suci Wulandari et al., "ACTORS OF THE JUDICIAL POWER SYSTEM IN INDONESIA Introduction Must Be Given Support By The People. Indonesia Is A Constitutional Country, So Indonesia Has The Power To Regulate Every Element Or Organ" 3, no. November (2023).

<sup>3</sup> Idul Rishan, "Constitutional Court Populism in the Interpretation of Cases in the Area of Open Legal Policy," IUS QUIA IUSTUM LAW JOURNAL 3, no. 3 (2024): 586.

transparency, and security of judicial data. In a modern constitutional state, the constitution is interpreted not only as a collection of fundamental norms but also as a social contract that defines the limits and direction of state power. In Indonesia, the 1945 Constitution has undergone four amendments since the reform era, which strengthened the principle of constitutional supremacy and established the Constitutional Court (MK) as the primary guardian of the constitution.<sup>4</sup>

This research uses a normative method, with the focus of this research being to analyze the legal norms contained in the Constitutional Court's rules in maintaining constitutionalism. This approach is used to analyze and interpret legal provisions related to the principles of constitutionalism and the authority of the Constitutional Court in reviewing laws against the 1945 Constitution of the Republic of Indonesia. The purpose of writing this article is to determine and analyze the role of the Constitutional Court in the midst of changing times, and to determine the consistency of the Constitutional Court's decisions in implementing principles, the rule of law, checks and balances, and protecting the constitutional rights of citizens.

## **B. Discussion**

The Constitutional Court is an independent judicial institution tasked with upholding law and justice. It was established to ensure that the constitution is upheld as the supreme law, and is therefore referred to as the guardian of the constitution.<sup>5</sup> The Constitutional Court has four authorities and obligations as regulated in the 1945 Constitution. The Constitutional Court has the authority to adjudicate at the first and final level, and its decisions are final, namely:

1. Testing laws against the Constitution;
2. Resolving disputes regarding the authority of state institutions whose authority is granted by the Constitution;
3. Deciding on the dissolution of political parties, and
4. Resolving disputes regarding general election results. (MKRI, 2014)

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<sup>4</sup> Sarmila Radjak, "Testing the Limits of Authority: The Constitutional Court's Interpretation of the 1945 Constitution in the Dynamics of Modern Democracy," 2025, 1800–1815.

<sup>5</sup> Fakhrian Yudiansyah et al., "The Development of the Constitution in Indonesia Through the Role of the Constitutional Court in Enforcing Constitutional Law Reviewed According to Law Number 24 of 2003 Concerning the Constitutional Court," *Jembatan Hukum: Studi Ilmu Hukum, Sosial Dan Administrasi Negeri* 1, no. 2 (2024): 223–37.

The Constitutional Court (MK) plays a crucial role in the Indonesian judicial system, with the authority to review laws against the 1945 Constitution and resolve disputes related to the authority of other state institutions. In carrying out its authority and duties, the MK also faces several obstacles. One frequently encountered obstacle is the negative behavior of MK judges. The case of the MK Chief Justice, who was caught red-handed, allegedly involved in bribery related to a case under review, has become a controversial one. Obstacles to the oversight of Constitutional Court judges have become a public issue that has resurfaced. There is debate regarding the model and framework for oversight and the protection of the interests of the wider community. In addition, Article 24 paragraph (2) of the 1945 Constitution states that judicial power is exercised by the Supreme Court and judicial bodies under it in the general judicial system, the religious judicial system, the military judicial system, the administrative judicial system, and by the Constitutional Court. Based on this provision, the Constitutional Court is one of the subjects of judicial power, besides the Supreme Court.

In some cases, the Constitutional Court faces challenges in resolving disputes related to the authority of other state institutions. For example, in the Bibit and Chandra cases, which were alleged corruption cases by the police, the Constitutional Court ruled that KPK members could be permanently dismissed if they had been named as defendants, even though there had not been a final and binding court decision. To address this issue, the Constitutional Court must increase transparency and accountability in the exercise of its authority and duties. This can be done by increasing oversight of Constitutional Court judges and ensuring that Constitutional Court decisions are based on clear legal rules and procedures.

The Constitutional Court's constitutional authority applies the principle of checks and balances, which places all state institutions on an equal footing, ensuring balance in state governance. The Constitutional Court's existence represents a concrete step toward mutually correcting the performance of state institutions. With its noble and strategic functions and authority, it is natural for many to expect the Constitutional Court to be at the forefront of upholding accountability, transparency, and the principles of good governance. This has been evident in the Constitutional Court's

performance to date, despite being tarnished by a high-profile case involving the Chief Justice himself. Nevertheless, many respect the Constitutional Court's achievements and reputation.

The Constitutional Court plays a role in protecting citizens' constitutional rights through its decisions on the constitutionality of laws. In its decisions, the Constitutional Court frequently rejects legal norms that violate citizens' human rights or requires the restructuring of legal norms to comply with constitutional protections. This demonstrates the Constitutional Court's active involvement in protecting human rights and citizenship as part of constitutionalism.<sup>6</sup>

The Constitutional Court (MK) has an important role in maintaining the stability of Indonesia's constitutional system through the implementation of its functions as guardian of the constitution, regulator of the balance of power, and resolution of constitutional conflicts.

#### 1. Legal sovereignty in the constitutional court.

The principle of law is a fundamental concept in the legal system that affirms that the law, as the supreme rule, must be enforced fairly and equally for all individuals and institutions within a country. This concept encompasses the principle that no one is above the law, including the government and public officials. In Indonesia, the principle of law plays a crucial role in maintaining stability, justice, and order in a society governed by law. Since the reform era, Indonesia has strengthened its commitment to the principle of just law through amendments to the 1945 Constitution, which strengthened law enforcement agencies and provided a broader scope for the protection of citizens' basic rights. Just law in Indonesia refers to the constitution as the supreme law, which must be respected and upheld by all state institutions and citizens in general. This principle also ensures that every government action must be based on existing law, preventing abuse of power that violates citizens' rights.

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<sup>6</sup> Ashfiya Nur Atqiya et al., "The Role of the Constitutional Court in Guaranteeing Citizenship Rights in Indonesia Postgraduate Program, Sebelas Maret University, Indonesia Doctoral Program in Law, UNS, Indonesia" 1, no. 6 (2024).

The existence of the Constitutional Court is a crucial element in a modern democratic system. The Constitutional Court provides legal protection against abuse of power by government or legislative institutions. This demonstrates that the Constitutional Court is tasked with ensuring that the government does not act beyond the limits established by the constitution or basic law. The Constitutional Court's primary duty is to conduct legal reviews or assessments of laws or regulations deemed unconstitutional. This procedure allows the Constitutional Court to annul or declare invalid laws deemed unconstitutional. Furthermore, the Constitutional Court can also provide constitutional interpretations in controversial cases, thus establishing legal rules that can be used as a reference in the future. In some countries, the Constitutional Court consists of a group of constitutional judges selected or appointed based on procedures determined by the constitution or basic law. Constitutional Court judges are selected based on their background and expertise in constitutional and administrative law. They are expected to carry out their duties independently and without being influenced by political pressure or other interests. In addition to reviewing laws, the Constitutional Court can also play a role in resolving constitutional or political disputes involving various domestic parties.

The Constitutional Court helps maintain political stability by rendering fair and lawful decisions in resolving potential conflicts. In addition to its primary function of judicial review, the Constitutional Court also plays an educational role in society. Constitutional Court decisions are frequently the subject of learning and discussion in civil society, universities, and other institutions. This helps increase public understanding of constitutional principles and the importance of law in maintaining justice and sustainability in a country. Furthermore, the Constitutional Court frequently collaborates with other institutions in the judicial system to ensure the implementation of its decisions. This collaboration is crucial to ensuring that laws implemented by all state institutions are in accordance with the principles established by the Constitutional Court, thus creating a stable and reliable legal environment for all citizens.

The importance of the relationship between the Constitutional Court and the rule of law is evident in the way it provides legal protection for citizens' fundamental

rights. In its various judicial review decisions, the Constitutional Court often plays a role in ensuring that laws are not only formally valid but also do not conflict with constitutionally guaranteed rights, such as the right to justice, freedom of expression, and protection against discrimination. Thus, the Constitutional Court not only maintains legal consistency but also protects individual rights from potential abuse of power by the government or legislative bodies. However, the relationship between the Constitutional Court and legal principles is not always free from controversy or challenges. The Constitutional Court often faces political pressure or interference from interested parties in its decisions. These challenges can threaten the Constitutional Court's independence in carrying out its duties fairly and objectively. Therefore, it is crucial for the Constitutional Court to maintain its independence as a judicial institution free from political and external influences to maintain its integrity in upholding the rule of law.

On the other hand, the Constitutional Court also plays a role in creating legal certainty in society. By providing a consistent and clear interpretation of the constitution, the Constitutional Court helps create certainty in the application of law across various sectors of life. This certainty is crucial for building public trust in the judicial system and other state institutions. Furthermore, legal certainty supports investment and economic growth by creating a stable and orderly environment for business and development activities. Furthermore, the Constitutional Court also plays a role in strengthening democracy and the system of checks and balances within a country. By reviewing laws against constitutional standards, the Constitutional Court helps ensure that government power is distributed equitably and does not exceed the limits set by the constitution. This prevents abuses of power that could threaten democratic principles, such as the right to freedom of expression and minority rights.

## 2. Constitutional Court and Human Rights

The Constitutional Court plays a crucial role in guaranteeing the fundamental rights of citizens protected by the constitution. One of its primary functions is to ensure that all laws and regulations enacted by the government do not conflict with the 1945 Constitution. In this regard, the Constitutional Court acts as a constitutional

watchdog, ensuring that fundamental rights such as freedom of expression, the right to work, and the right to education are guaranteed and protected by the state. The Constitutional Court also prioritizes citizens' political rights, such as the right to vote and be elected. The Court plays a key role in resolving disputes over election results that could impact individuals' political rights. The Constitutional Court ensures that any election-related disputes are resolved fairly and transparently, thereby maintaining public confidence in the democratic process.<sup>7</sup>

In the social sector, the Constitutional Court ensures that every individual has the same rights to enjoy public services and facilities.<sup>8</sup> These rights include the right to education, health care, and other social services. The Constitutional Court plays a role in reviewing laws that may discriminate against certain groups or hinder their access to these rights, thus ensuring that every citizen receives fair and equal treatment. Citizens' economic rights, such as the right to work and a decent living, are also protected by the Constitutional Court. In cases where economic laws or policies are deemed detrimental to citizens, the Constitutional Court can review and annul the policy if it is found to violate constitutional rights. This ensures that every individual has an equal opportunity to achieve economic prosperity. The Constitutional Court also plays a crucial role in protecting the rights of minorities and vulnerable groups. In many cases, laws or policies implemented by the government may not be explicitly discriminatory, but negatively impact certain groups. The Constitutional Court ensures that minority rights are protected and that all government policies respect the principles of justice and equality. In carrying out its duties, the Constitutional Court often faces significant challenges. However, through several landmark rulings, the Constitutional Court has set a strong precedent in the protection of human rights. These decisions not only influence Indonesian law, but also serve as a reference for other legal institutions in carrying out their duties.

The Constitutional Court's crucial role in protecting human rights cannot be overstated. By ensuring that all laws and government policies are in accordance with

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<sup>7</sup> Queensly Siska Seroy, "The Competence of the Constitutional Court in Upholding Human Rights," *Lex Administratum* 9, no. 6 (2021).

<sup>8</sup> Jerimas Pelokilla, "The 1945 Constitution as a Constitutional Basis for the Protection of the Rights of Indonesian Citizens," *JOCER: Journal of Civic Education Research* 1, no. 1 (2023): 24–28.

the Constitution, the Constitutional Court helps create a stable and fair legal environment. This is crucial for building public trust in the legal system and government. The Constitutional Court also plays a role in legal education for the public. Through various educational and outreach programs, the Constitutional Court helps raise public awareness of their constitutional rights. With a better understanding of these rights, citizens can be more proactive in defending and fighting for their rights.

The Constitutional Court (MK) acts as the guardian of the constitution, ensuring that all actions and policies of state institutions remain within the constitutional framework. In the context of constitutionalism, the MK performs its primary function of upholding the rule of law through its authority to review laws (judicial oversight), so that legal norms that conflict with the 1945 Constitution can be annulled to maintain constitutional supremacy. Constitutionalism places limitations on power as a key element, so the MK's existence serves as a check and balance that ensures legislative and executive powers do not deviate from basic legal principles. The Constitutional Court is a fundamental institution in ensuring the enforcement of the principles of modern constitutionalism, which demands limitations on power and the protection of citizens' constitutional rights.

Technological developments, political changes, and the rise of legal populism present new challenges for the Constitutional Court in carrying out its constitutional duties. The digitalization of judicial proceedings expands public access to Constitutional Court decisions and hearings, but simultaneously demands increased information security and transparency. On the other hand, political intervention and tendencies toward legal populism often pressure the Constitutional Court to issue decisions that accommodate public opinion, rather than based solely on constitutional principles. The Constitutional Court must maintain its independence, remain objective, and ensure that all trial processes adhere to the principles of fairness, transparency, and accountability. These challenges demonstrate how the Constitutional Court must remain consistent in its progressive interpretation of the Constitution without being influenced by political pressure.

In addition to upholding constitutional supremacy, the Constitutional Court also plays a crucial role in strengthening the principles of checks and balances and protecting citizens' constitutional rights. Through its progressive decisions, the Constitutional Court often serves as the last bastion when citizens' rights are threatened by regulations inconsistent with constitutional values. Decisions regarding the right to education, political rights, and freedom of religion demonstrate how the Constitutional Court uses its authority to ensure the state functions in accordance with the principles of constitutional democracy. The Constitutional Court's prioritization of progressive interpretations is part of the judicial activism necessary to address modern socio-political dynamics. However, this activism must be balanced with judicial restraint to prevent the Constitutional Court from exceeding its authority and maintain its legitimacy in the eyes of the public. Therefore, the role of the Constitutional Court in the modern era is not only to safeguard the text of the Constitution, but also to interpret its core values to ensure they remain relevant in facing the challenges of the times.

### **C. Conclusion**

Based on the description in this study, it can be concluded that the Constitutional Court plays a crucial role in upholding the values of constitutionalism in Indonesia through its authority to review laws, fulfill the obligations of state institutions, decide on election results, and protect the constitutional rights of citizens. In the dynamic modern era characterized by technological developments, political pressure, legal populism, and increasing demands for transparency, the Constitutional Court is required to maintain independence and consistency in constitutional interpretation. The Constitutional Court's decisions demonstrate a progressive tendency in upholding the principles of the rule of law, checks and balances, and the protection of human rights, although at the same time the Constitutional Court must maintain a balance between judicial activity and constitutional prudence so as not to exceed the limits of authority granted by the 1945 Constitution. Thus, the role of the Constitutional Court lies not only in maintaining the purity of the constitutional text,

but also in its ability to interpret the basic values of the constitution so that they remain relevant in facing the social, political, and technological challenges of the modern era.

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