

Critical of the Use of Constitutional Court Decisions by Constitutional Enforcers and Political Tools by the Power Elite

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Abstract

The Constitutional Court holds a strategic position as the guardian of the Constitution and the final interpreter of constitutional norms. In practice, however, Constitutional Court decisions are increasingly drawn into political contestation, where they are selectively interpreted and instrumentalized by constitutional enforcers and the power elite. This phenomenon raises serious concerns regarding constitutional integrity, judicial independence, and the erosion of democratic governance. This study is grounded in the growing tension between constitutional adjudication and political interests in contemporary constitutional states. The objective of this research is to critically analyze the use and misuse of Constitutional Court decisions by constitutional enforcers and political actors, particularly when such decisions function as political tools rather than as normative constitutional guidance. The study seeks to reveal patterns of instrumentalization and their implications for constitutional supremacy and the rule of law. This research employs a qualitative juridical-normative approach, supported by constitutional theory, critical legal studies, and case analysis of selected Constitutional Court decisions and their political implementation. Data are analyzed through interpretative and critical methods. The results indicate that Constitutional Court decisions are frequently politicized, fragmented in Interpretation, and strategically mobilized to legitimize elite interests. This practice weakens constitutional enforcement, blurs the boundary between law and politics, and undermines public trust in constitutional institutions. The study recommends strengthening constitutional ethics, reinforcing judicial authority, and promoting constitutional literacy among political elites to prevent the reduction of Constitutional Court decisions into mere political instruments.

Keywords: Constitutional Court; Constitutional Enforcers; Power Elites; Legal Politics; Judicial Independence.

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INTRODUCTION

The Constitutional Court (MK) is one of the main pillars of the Indonesian constitutional system, established through amendments to the 1945 Constitution of the Republic of Indonesia to enforce the principles of constitutionalism and the rule of law. As contained in Article 24C of the 1945 Constitution, the Constitutional Court has the authority to test laws against the Constitution, decide disputes over the authority of state institutions, dissolve political parties, and decide disputes over the results of general elections. The position of the Constitutional Court is designed as *an institution that serves as the guardian of the Constitution*, ensuring that all legal products and political actions of the government are always in harmony with its principles (Asshiddiqie, 2006).

In constitutional practice, the Constitutional Court is often seen as the last bastion of democracy and constitutional *justice*. According to Mahfud MD (2010), the Constitutional Court is expected to become an institution that not only upholds the constitutional text rigidly but also imbues the Constitution with the spirit of justice. However, these ideals are often confronted with complex political realities. The Constitutional Court's decisions in recent years have sparked controversy because they are seen as driven by political interests and potentially benefiting certain parties in the power arena.

A striking phenomenon, for example, is evident in Constitutional Court Decision Number 90/PUU-XXI/2023, which changes the age requirements for presidential and vice presidential candidates. This decision sparked a polemic because it was seen as accommodating certain political interests rather than being based solely on the principle of legal constitutionality (Kompas, 2023). Similar cases also occurred in previous rulings *on the presidential threshold* and the term of office of regional heads. This condition gives rise to the public perception that the Constitutional Court is no longer fully independent but is part of the *political machinery* that the power elite can use.

According to Tate and Vallinder (1995), this phenomenon can be explained through the concept of *judicial politics*, namely the involvement of judicial institutions in political processes and outcomes. Within this theory, the judiciary cannot be completely detached from political influence, especially in democratic countries whose legal systems are still developing. When political influence enters the judicial decision-making process, *judicial politicization* occurs, a condition in which legal decisions become a tool for power legitimization.

In the Indonesian context, the politicization of the Constitutional Court reflects the dilemma between legal idealism and the reality of power politics. As explained by Satjipto Rahardjo (2009), law cannot be understood only as a set of norms, but as a "social institution" that is always interacting with economic, political, and cultural forces. Thus, every legal decision, including the Constitutional Court's, is not born in a vacuum but in a complex and dynamic socio-political space.

This tendency raises a fundamental question: Does the Constitutional Court still act as an independent guardian *of the Constitution*, or has it shifted into an instrument *of power* that serves the interests of the elite? This question is important to answer, given that public trust in the judiciary is the main foundation for the establishment of a state of law and constitutional democracy (Asshiddiqie, 2023).

Furthermore, this issue also has serious implications for the principle of separation of powers. Montesquieu (1748/1989) emphasized that, for power not to be abused, legislative, executive, and judicial powers must be strictly separated. However, in reality, shifting the Constitutional Court's function into the political realm can blur the line

between judicial and political power, thereby weakening the judicial independence that should be maintained (Montesquieu, 1989).

The phenomenon of *judicial capture*, or the *political co-optation* of the Constitutional Court, not only affects the institution's Legitimacy but also undermines public trust in constitutional justice. If the Constitutional Court is no longer a neutral guardian of the Constitution, then the entire constitutional democratic process will lose its support. Therefore, a critical analysis of the power elite's use of the Constitutional Court's decisions is important to assess the extent to which this institution continues to fulfill its ideal function as a constitutional enforcer.

This research employs a qualitative, critical paradigm to examine the socio-political reality underlying the Constitutional Court's decisions. Through a normative-empirical study of judgments, public documents, and the views of legal experts and political observers, this study seeks to understand how power works behind formal legal structures. Thus, this study not only assesses normative aspects but also reveals the relationship between law and power that shapes the Indonesian constitutional judiciary.

Literature Review

1. The Basic Concept of the Constitutional Court in the Indonesian Constitutional System

The Constitutional Court (MK) is a high state institution established by the third amendment to the Constitution of the Republic of Indonesia in 1945. Its establishment is based on the need for a judicial institution that specifically maintains the purity of the Constitution and ensures that every legal product remains in line with constitutional principles (Asshiddiqie, 2006).

According to Article 24C paragraph (1) of the 1945 Constitution, the Constitutional Court has four main powers: (1) to test laws against the Constitution; (2) to decide authority disputes between state institutions; (3) decide on the dissolution of political parties; and (4) to settle disputes over the results of the general election. In addition, the Constitutional Court is obligated to issue a decision on the House of Representatives' opinion regarding alleged violations of the law by the President or Vice President during their term of office (Mahfud, 2010).

The Constitutional Court embodies the ideals of the rule of law (*rechtstaat*) and constitutional democracy. According to Strong (1972), this kind of constitutional institution functions to keep the law under the control of power (Strong, 1972). In this context, the Constitutional Court is expected to be the protector of constitutional supremacy and the guardian of democracy. However, this idealism is often tested by political interests that try to influence the direction and substance of the Constitutional Court's decisions.

Jimly Asshiddiqie called the Constitutional Court the *guardian of the Constitution* and the *protector of democracy* (Asshiddiqie, 2023). However, in constitutional practice, there are concerns that the Constitutional Court could *become a guardian of power* if its integrity and independence are not maintained. This concern arises because the selection process for constitutional judges is often rife with political interests, as the three branches of government participate: the President, the House of Representatives, and the Supreme Court (Nurhadi, 2018).

This poses a risk of *political capture*, in which political actors use formal selection mechanisms to place figures aligned with their interests in the constitutional judiciary.

2. Independence of the Judiciary

The independence of the judiciary is the main pillar of the state of law. Article 24, paragraph (1) of the 1945 Constitution expressly states that judicial power is an independent power to uphold law and justice. This concept reflects the principle of the separation of powers put forward by Montesquieu (1748/1989), in which legislative, executive, and judicial powers must be separate to prevent abuse of power.

According to Black (1962), judicial independence not only means being free from political intervention but also from economic, social, and group interests. In practice, this independence is realized through ethical enforcement mechanisms, transparent decision-making, and strong public accountability.

However, the political reality of Indonesia shows that this concept of independence is still often disrupted by external and internal pressures. The phenomenon of "judicial mafia", power intervention, and political dependence in the recruitment of judges has become a classic problems that weaken the judicial position (Rahardjo, 2009). In the context of the Constitutional Court, independence is increasingly important because this institution is authorized to interpret constitutional norms that can directly affect the distribution of political power.

Mahfud MD emphasized that in a democratic system, judicial independence does not mean independence from public control, but rather remains within a system of checks and balances to prevent the abuse of authority. However, when the Constitutional Court's decision becomes a political tool for certain groups, the function of constitutional supervision becomes a means of legitimizing power. (Mahfud, 2013)

3. Theory of Judicial Politics and the Politicization of Law

From the perspective of modern legal science, it is undeniable that law and politics interact. The theory of judicial politics, as put forward by Tate and Vallinder (1995), explains that the judiciary is often an arena of political power, where judges' decisions can have a significant political impact. This phenomenon is called the judicialization of politics or politicization of the judiciary, a two-way reciprocal relationship between law and politics.

Judicialization of politics occurs when the judiciary takes a role in the political realm, for example, by repealing laws enacted by the legislature or by interpreting the Constitution progressively to regulate government affairs. On the other hand, the politicization of the judiciary occurs when political actors influence or use judicial institutions for their own political purposes (Hirschl, 2004).

In the Indonesian context, the phenomenon of the politicization of the Constitutional Court appears real, as constitutional decisions are often associated with certain political interests. For example, the ruling on the presidential threshold is considered to strengthen political oligarchs because it limits the access of small parties to run for President (Situmorang, 2020). Meanwhile, the Constitutional Court's decision Number 90/PUU-XXI/2023 on the age limit for presidential candidates sparked controversy because it was allegedly favorable to certain parties in the general election (Kompas, 2023).

This phenomenon shows that judicial politics in Indonesia is no longer just a theory, but an empirical reality that affects the dynamics of law and democracy.

4. Law as a Social Product and the Arena of Power

Progressive legal thought developed by Satjipto Rahardjo states that law cannot be understood as a stand-alone normative system, but must be seen as part of a social system



influenced by politics, economics, and culture. In this view, the law is often a "mirror" of society's existing power configuration (Rahardjo, 2009).

Rahardjo emphasized that law can be used to liberate human beings (law as an instrument of liberation). Still, it can also be used as a tool of domination (law as an instrument of power). Therefore, institutions such as the Constitutional Court have a moral responsibility to ensure that the law serves justice, not power.

Nonet and Selznick expressed a similar view through the concept of responsive law, which must be sensitive to social dynamics and not subject to political pressure. If the Constitutional Court loses its social sensitivity and only becomes an instrument of power, then the essence of constitutional justice will disappear (Nonet & Selznick, 1978)

5. Politics, Law, and Constitutional Ethics

Legal politics is the basic direction and policy of the state in the formation, implementation, and enforcement of the law. According to Mahfud MD (2010), legal politics reflects the legitimate will of power in regulating people's lives. In this framework, the Constitutional Court's decision should be situated within the political corridor of constitutional law, upholding the principle of justice rather than pragmatic political interests.

Meanwhile, constitutional ethics emphasizes the moral integrity of those who administer judicial power. Jimly Asshiddiqie emphasized that constitutional judges have a responsibility not only to positive law, but also to the constitutional conscience that favors substantive justice. When constitutional ethics are ignored, legal decisions lose their moral Legitimacy, even if they are formally lawful (Asshiddiqie, 2023).

Constitutional ethics also demand transparency and accountability in the decision-making process. In line with Friedman's view, the legal system consists of three elements: structure, substance, and legal culture. If the legal culture (values and ethics) is weakened, then the structure and substance of the law will be easily distorted by power (Friedman, 1975).

RESEARCH METHODS

1. Types and Approaches to Research

This study uses a qualitative approach, combining a juridical-normative method with a socio-legal approach. The qualitative approach is used because this research does not focus on numbers or quantitative data, but rather on a deep understanding of a complex, contextual legal phenomenon: the shift in the role of the Constitutional Court (MK) from a constitutional enforcer to an instrument allegedly used by the political power elite.

According to Moleong, qualitative research aims to understand the phenomena experienced by research subjects holistically, through descriptions in words and language in a typical natural context, and by utilizing various scientific methods. This approach is particularly relevant because the problems studied relate to the relationship between law and politics, which require an in-depth interpretation of legal texts, institutional behavior, and the surrounding social and political context (Moleong, 2018).

The juridical-normative approach is used to examine laws and regulations, Constitutional Court decisions, and relevant constitutional law doctrines. According to Soekanto and Mamudji (2015), the juridical-normative approach is legal research that places law as a norm or rule that becomes a guideline for human behavior in social life (Soekanto & Mamudji, 2015). Meanwhile, the socio-legal approach is used to understand

how the Constitutional Court's decision is not only a legal product but also a result of the interaction between judicial and political power (Banakar & Travers, 2013).

Thus, the combination of these two approaches allows researchers to analyze the Constitutional Court not only in terms of positive law but also in terms of the sociological and political aspects of law that influence decision-making.

2. Location and Data Source

This research focuses on the analysis of Constitutional Court decisions with high political implications, especially those that reveal the potential for exploiting the interests of political elites. Some of the decisions that are the source of the study include:

- a. Constitutional Court Decision No. 90/PUU-XXI/2023 concerning the age requirements for presidential and vice presidential candidates.
- b. Constitutional Court Decision No. 14/PUU-XI/2013 concerning simultaneous elections.
- c. Constitutional Court Decision No. 46/PUU-VIII/2010 concerning the status of children out of wedlock.
- d. Constitutional Court Decision No. 7/PUU-XI/2013 concerning the testing of political party laws.

In addition, this study examines supporting documents, including laws and regulations (the 1945 Constitution of the Republic of Indonesia, Law No. 24 of 2003 concerning the Constitutional Court as amended by Law No. 7 of 2020), academic literature, journal articles, news, and interviews with constitutional law experts.

3. Types and Data Sources

The data used in this study consists of two types:

- a. **Primary Data**, which is the main legal material in the form of:
 - 1) The 1945 Constitution of the Republic of Indonesia;
 - 2) Law Number 24 of 2003 concerning the Constitutional Court, as amended by Law Number 7 of 2020;
 - 3) Constitutional Court rulings that are relevant to political and legal issues.
- b. **Secondary Data**, including:
 - 1) Scientific books on constitutional law and legal political theory;
 - 2) National and international law journals;
 - 3) Mass media articles and expert opinions;
 - 4) Reports or research results from academic and legal institutions, such as ICW, the Center for Constitutional Studies (PUSaKO) at Andalas University, and the Setara Institute.

According to Soemitro (1998), secondary data are obtained from primary, secondary, and tertiary legal materials that support the analysis of norms and their implementation context.

4. Data Collection Techniques

The data collection technique is carried out in several ways:

- a. Library
- b. Research: This method is used to collect primary and secondary legal materials by examining official documents, books, journals, and scientific articles. According to Nazir, literature study is a way of collecting data by examining various literature related to the research object to obtain a strong theoretical foundation (Nazir, 2011).

- c. In-depth
- d. Interviews were conducted with constitutional law experts, academics, and former constitutional judges to gain a critical perspective on the Constitutional Court's independence and the potential for political intervention. This interview method is semi-structured to allow for a freer exploration of informants' opinions and views (Creswell, 2014).
- e. Contextual Documentation and Observation
Data collection is also carried out through observation of the political context and media reports to understand the dynamics surrounding the Constitutional Court's decision.

5. Data Analysis Techniques

The collected data were analyzed using descriptive qualitative analysis and content analysis. Descriptive qualitative analysis is used to describe the legal and political facts that occur, which are then interpreted in light of legal theory and the principles of constitutionalism. Meanwhile, content analysis is used to examine the substance of the Constitutional Court's decision, question its political motives, and interpret its legal meaning (Krippendorff, 2018).

Miles and Huberman (1994) stated that qualitative data analysis proceeds through three stages: data reduction, data presentation, and conclusion/verification. In the context of this study:

- a. The data reduction was carried out by sorting documents from the Constitutional Court's decisions relevant to political and legal issues.
- b. The presentation of data is carried out through narrative descriptions and chronological tables of the verdict.
- c. Conclusions are drawn by linking empirical findings with theories of constitutionalism and legal politics.

6. Data Validity (Validity and Reliability)

To ensure data validity, the source triangulation method and the triangulation method are used. Source triangulation was conducted by comparing data from the Constitutional Court's decision, the academic literature, and interview results. Meanwhile, triangulation is achieved by combining document analysis, interviews, and observations (Denzin & Lincoln, 2011).

The validity of the data was also tested through peer review with constitutional law experts and academic discussions to avoid interpretive bias.

7. Research Procedure

The stages of the research were carried out as follows:

- a. Problem Identification
Formulating the shift in the function of the Constitutional Court in the context of legal politics.
- b. Data Collection
: gathering legal materials and empirical data from a variety of sources.
- c. Analysis and Interpretation
: interpreting findings based on the theory of constitutionalism and the principle of checks and balances.
- d. Conclusion Drawing

compiling a legal argument that describes the Constitutional Court's position between the ideals of constitutional enforcement and the reality of power politics.

RESULTS AND DISCUSSION

1. Overview of the Role of the Constitutional Court

The Constitutional Court (MK) of the Republic of Indonesia is a state institution established by the third amendment to the 1945 Constitution. The goal is to maintain the purity and supremacy of the Constitution as the highest law in Indonesia. Its main functions include testing laws against the Constitution, resolving disputes over the authority of state institutions, dissolving political parties, and resolving disputes over election results (Article 24C of the 1945 Constitution of the Republic of Indonesia).

As the *guardian of the Constitution*, the Constitutional Court plays a strategic role in ensuring the implementation of the principle of *checks and balances among the branches of state power*. However, in practice, the Constitutional Court is not always free from political intervention and influence. Several decisions taken in the context of national politics have sparked public debate over whether the Constitutional Court still stands as an independent constitutional enforcer or has shifted to become a tool of certain political interests (Asshiddiqie, 2023).

According to Mahfud MD, the existence of the Constitutional Court is "*the fourth branch of government*" in the modern constitutional system, which is tasked with keeping the Constitution from being distorted by the executive and legislative powers. However, this strategic position often makes the Constitutional Court an arena of tension between legal and political interests (Mahfud, 2011).

2. Field Findings and Critical Analysis of the Constitutional Court's Decision

a. Decision Number 90/PUU-XXI/2023: A Symbol of Shifting Interests

One of the most prominent cases in this context is the Constitutional Court Decision Number 90/PUU-XXI/2023, which changed the minimum age requirements for presidential and vice presidential candidates. In the ruling, the Constitutional Court held that a person under 40 years old can run for President or vice president, provided they hold or currently occupy a position obtained through general elections.

This verdict drew widespread controversy because it was seen as opening the political path for certain individuals who had direct power relations with the ruling elite at the time. Analysis of the decision document shows that there is judicial activism that goes beyond the Constitutional Court's constitutional role, where the judiciary acts as a new norm-former without a sufficiently strong basis in the Constitution (Siregar, 2024).

According to Jimly Asshiddiqie, the decision constitutes a "constitutional anomaly" because the Constitutional Court adds new norms that were not previously explicitly regulated by law, thereby potentially introducing political bias into law enforcement. This strengthens the view that some of the Constitutional Court's decisions are not entirely grounded in the principle of constitutional reasoning, but rather in calculations of power and political interests (Asshiddiqie, 2023).

In this study, it was found that public narratives and academic analysis often associate this decision with the phenomenon of "constitutionalization of political interests", which is the process by which the interests of power are transformed into legitimate, constitutional legal decisions (Kelsen, 2006).

b. The Relationship of Power and Independence of Constitutional Judges



Interviews with several constitutional law experts revealed an almost uniform perception that the independence of constitutional judges is vulnerable to political pressure and personal interests. This is because the recruitment process for Constitutional Court judges is still rife with political nuances, as each of the three judges is proposed by the President, the House of Representatives, and the Supreme Court.

According to Ni'matul Huda, the mechanism structurally opens space for political intervention because actors with a direct interest in public policy can influence judges' independence through formal political channels (Huda, 2020).

Facts on the ground show a tendency to "align the attitude" of judges in some strategic decisions ahead of important political momentum, such as elections. In an interview with one of the academics in the field of constitutional law (Respondent A, 2024), it was stated that:

"The Constitutional Court seems to be in a dilemma between maintaining the Constitution and maintaining harmony with the political power that appoints some of its judges. This is a paradox that threatens the ideals of constitutionalism."

These findings show that the relationship between the Constitutional Court and the power elite is not only a legal phenomenon but also an institutional political phenomenon inherent in the Constitutional Court's own institutional design (Ferejohn, 2002).

c. The Utilization of the Constitutional Court's Decision as a Power Political Strategy

Data analysis shows that political elites use the Constitutional Court's decisions in three main patterns:

- 1) Political Legitimacy, which is to make the Constitutional Court's decision a legal justification for certain political policies or strategies. For example, after the Constitutional Court ruled on the age of presidential candidates, political elites used the legal basis to build a narrative of legality against candidates who were considered to have not met the previous requirements.
- 2) Power maneuvers, namely making the Constitutional Court a legal arena for political battle, for example, in disputes over election results. In this context, the Constitutional Court is often "*the last political battlefield*", not just a legal forum (Butt & Lindsey, 2018).
- 3) Delegitimization of the Opposition, which is the use of the Constitutional Court's decision to narrow the space for the movement of opposing political forces. Thus, the Constitutional Court not only functions as a judicial institution but also as an instrument for legally managing political conflicts.

This phenomenon shows a shift in the Constitutional Court's function from *a guardian of the Constitution* to an *instrument of power legitimation*, in which the law is used to strengthen the current political power structure.

d. Theoretical Analysis: Constitutionalism and Judicial Politics

Based on the theory of modern constitutionalism, the constitutional judiciary must function as a protector of basic rights and a limit of power (Dicey, 1982). However, the findings of this study suggest that the Constitutional Court sometimes fails to carry out that role consistently due to political pressures and complex power relations.

According to the theory of Judicial Politics put forward by Epstein and Knight, judges are influenced not only by the legal text but also by ideological preferences, institutional pressures, and the political context in which they operate. In the Indonesian context, this

theory is evident in the dynamics of Constitutional Court decision-making, which is often associated with the interests of executive or legislative power (Epstein & Knight, 2000).

This research also shows that the Constitutional Court faces a crisis of public Legitimacy due to the perception that its decisions are not entirely based on objective legal considerations. This phenomenon has the potential to erode public trust in the rule of law and its principles, as Dicey reminded us: that the unlimited power of the law will lead to "veiled absolutism" (Dicey, 1982).

3. Synthesis: The Constitutional Court in the Dilemma of Dual Roles

From the research's overall results, the Constitutional Court faces a dilemma between ideals as an independent constitutional enforcer and reality as an institution trapped in the orbit of political interests.

The weakness of the judge-recruitment system, political influence in the legislative process, and a constitution that is too flexible in its Interpretation of power often draw the Constitutional Court into the vortex of political conflict.

Normatively, the Constitutional Court should stand as the last bastion of constitutionalism. However, empirically, data show that the Constitutional Court tends to be part of the power dynamics itself. Thus, this study emphasizes the need for institutional reform of the Constitutional Court, including the recruitment mechanism, transparency in decision-making, and the establishment of a stricter code of ethics for constitutional judges to maintain the integrity of this institution in the future.

Discussion

The research findings indicate that Constitutional Court decisions in Indonesia are designed to safeguard the supremacy of the Constitution and protect citizens' constitutional rights. However, in contemporary constitutional practice, Constitutional Court decisions are increasingly being selectively used by the ruling elite to bolster political Legitimacy rather than solely as a neutral and objective legal reference.

First, the research found a shift in the function of Constitutional Court decisions from guardian of the Constitution to political leverage. Certain decisions are cited, in part and in context, by political actors to justify policies or power maneuvers. In contrast, other decisions that could limit power are ignored or their implementation delayed. This pattern reflects an inconsistency in respect for the principle of *erga omnes* and the finality of Constitutional Court decisions (Huda, 2021).

Second, the research identified that political elites tend to construct Constitutional Court decisions as political narratives, rather than legal norms. Constitutional Court decisions are often positioned as "legal support" for the interests of those in power, even though theoretically they are declarative-constitutional, not affirmative-political. This situation indicates a reduction in the meaning of constitutionalism, in which the Constitution is no longer understood as a limit on power but rather as a flexible instrument that can be interpreted in line with dominant political interests.

Third, research findings reveal that elite reliance on the Constitutional Court's Legitimacy indirectly weakens the institution's independence. Although the Constitutional Court is formally independent, the political expectations attached to its decisions create symbolic and structural pressures. In this context, the Constitutional Court may be trapped in an excessive judicialization of politics, where each decision carries sharp political consequences and is vulnerable to exploitation (Ferejohn, 2002).

Fourth, research shows that the lack of public constitutional literacy exacerbates the politicization of Constitutional Court decisions. The public tends to accept elite narratives without a complete understanding of the ratio decidendi and constitutional limits of these decisions. As a result, Constitutional Court decisions are more often understood as political victories or defeats, rather than as instruments of constitutional correction against abuses of power.

Fifth, from the perspective of constitutional democracy, this research finds that the politicization of Constitutional Court decisions has direct implications for the decline in the quality of the rule of law. When constitutional decisions are used opportunistically, the principle of checks and balances loses its normative force. The executive and legislative branches no longer feel substantively bound by the Constitution, but rather by interpretations that benefit their political positions.

Critically, this study assesses that the primary problem lies not solely with the Constitutional Court as an institution, but rather with the power relations between law and politics within the Indonesian constitutional system. As long as the Constitution is positioned as a tool for political compromise, rather than as the supreme norm binding all actors in power, the Constitutional Court's decisions will continue to be mired in the vortex of political instrumentality.

Thus, the research findings emphasize the need to reposition Constitutional Court decisions as constitutional norms that must be consistently and fully adhered to, along with strengthening the constitutional ethics of political elites and increasing public constitutional literacy. Without these steps, the Constitutional Court risks degrading its function from being a constitutional enforcer to merely a symbol of the Legitimacy of power.

CONCLUSION AND SUGGESTIONS

1. Conclusion

Based on the research and discussions conducted, the position of the Constitutional Court (MK) in Indonesia is in tension between ideals as guardians of the Constitution and political reality, making it an object and instrument of power interests. This is reflected in the pattern of use of several Constitutional Court decisions that have direct implications for the national political configuration, especially before and after general elections and in the context of testing strategic laws.

First, normatively and constitutionally, the Constitutional Court was established under the mandate of the 1998 reform as an independent judicial institution and has the main function of ensuring the implementation of state power in accordance with the Constitution. The Constitutional Court is expected to be the "moral guardian of the constitution" and the "protector of the constitutional rights of citizens". However, the study's results show that, in practice, the Constitutional Court's independence is often reduced by political intervention, either directly through the judge selection process or indirectly through pressure from public opinion and power interests.

Second, the Constitutional Court's political decisions, such as the cancellation of the presidential candidacy threshold rules, the revision of the term of office, or changes in the electoral system, show that it is not confined to a sterile space of power dynamics. In this context, some political elites allegedly use the space of constitutional Interpretation to strengthen their political positions. This phenomenon illustrates that the Constitutional Court's decisions sometimes serve as a source of political Legitimacy for certain groups with close ties to executive and legislative power.



Third, this study finds ambiguity in the role of the Constitutional Court: on the one hand, it is the last bastion of constitutional enforcement; On the other hand, it can become an "extension of power" when its internal institutional and ethical mechanisms are not running effectively. This is reinforced by the fact that there have been ethical violations involving constitutional judges, which have lowered public trust in this institution (Butt & Lindsey, 2018).

Fourth, from the perspective of power and law theory, the relationship between law and politics cannot be completely separated. Law, including the Constitutional Court's rulings, is often an arena for contesting values and interests. Therefore, the legal politics behind the Constitutional Court's decision cannot be seen solely as a violation of legal principles, but rather as a reflection of the dynamics between the ideals of the Constitution and the reality of power.

Thus, the main conclusion of this study is that the Constitutional Court in Indonesia faces a dilemma between maintaining the purity of its constitutional functions and facing practical political pressure from the power elite. This condition requires fundamental reforms in the mechanism for the recruitment of judges, strengthening judicial ethics, and public supervision, so that the Constitutional Court can truly return to being an independent and integrity-oriented constitutional enforcement institution.

2. Suggestion

Based on the above conclusion, some suggestions that can be submitted are as follows:

- a. Reform of the Constitutional Judge Recruitment Mechanism: The process of selecting Constitutional Court judges should be carried out openly and transparently, based on merit rather than political affiliation or personal proximity to the proposing institution (the President, the DPR, or the Supreme Court). An independent fit-and-proper test system is needed, involving civil society and constitutional law academics.
- b. Strengthening the Ethics System and Internal Supervision: The Honorary Assembly of the Constitutional Court (MKMK) must be strengthened structurally and functionally to take firm action against ethical violations by constitutional judges without external intervention. The enforcement of the code of ethics must be the main foundation for maintaining the authority of the constitutional judicial institution.
- c. Increased Accountability and Public Participation: Constitutional Court rulings must be communicated in legal language accessible to the public so that the public understands the basis of the juridical arguments behind each decision. This transparency can prevent certain interest groups from politicizing the Interpretation of the Constitutional Court's decision.
- d. Constitutional Political Education for the Elite and the Public. It is necessary to educate the public about the values of constitutionalism and the rule of law, so that the political elite no longer sees the Constitutional Court as a pragmatic means to achieve the goals of power, but as the guardian of justice and morality of the nation's Constitution.
- e. Reformulation of the Concept of Independence of the Constitutional Judicial Institution: The independence of the Constitutional Court is not measured solely by the formal aspect (separate institution), but also by the independence of its thought process, ethics, and constitutional responsibility of judges. Therefore, further legal



studies are needed to strengthen the Constitutional Court's position from institutional and constitutional procedural law perspectives.

Ultimately, keeping the Constitutional Court as a constitutional enforcer and not a political tool is the nation's collective task. The law should not be subject to power; rather, power must be controlled by law. In the context of constitutional democracy, the Constitutional Court is the main pillar that determines the direction of the Indonesian legal state. Therefore, restoring the integrity of the Constitutional Court means upholding the spirit of the Constitution.

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