

Normative and practical authorities of the constitutional court and the supreme court in upholding constitutional supremacy in Indonesia

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Abstract

The Constitutional Court (CC) and the Supreme Court (SC) represent two central pillars of Indonesia's judicial system, entrusted with upholding law, justice, and constitutional supremacy. While the Constitutional Court holds the authority to review laws against the Constitution, the Supreme Court possesses the authority to review regulations below the level of laws. Ideally, these mandates should complement one another to ensure the protection of citizens' constitutional rights and the coherence of the legal system. However, in practice, overlapping jurisdictions, inconsistent rulings, and limited coordination between the CC and SC often create legal uncertainty and undermine the effectiveness of judicial review. This study employs a normative juridical approach, combining statutory, historical, and philosophical perspectives, and is supported by limited comparative analysis of judicial review models in Germany, France, and the United States. The findings indicate that Indonesia requires clearer jurisdictional boundaries and stronger institutional synergy between the CC and SC to prevent fragmentation and to strengthen the rule of law. Reformulating the regulatory framework of judicial authority and introducing mechanisms of judicial dialogue are essential to ensure constitutional supremacy, safeguard fundamental rights, and promote legal stability.

Keywords

Constitutional Supremacy, Judicial Review, Constitutional Court, Supreme Court, Institutional Synergy

Introduction

The Constitutional Court (CC) and the Supreme Court (SC) are the two main pillars in the judicial power system in Indonesia with a constitutional mandate to uphold law and justice. In the development of the modern constitutional system, both serve not only as institutions for dispute resolution but also as active agents in the formulation of legal meaning, development of constitutional norms, and guardians of constitutional

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supremacy. This development becomes significant in the context of the ever-evolving legal and political dynamics of the country, particularly in addressing legislative ambiguity, public policies intersecting with citizens' constitutional rights, and challenges to the rule of law (Asshiddiqie, 2010).

The Constitutional Court, through its authority to review laws against the Constitution (judicial review), and the Supreme Court, through its authority to review regulations below the level of laws (administrative judicial review), demonstrate how the judiciary actively preserves the integrity of the national legal system (Fajril, 2020). However, in practice, overlaps in authority, inconsistent rulings, and tensions between constitutionally defined normative powers and the practical implementation by both institutions frequently occur (Rosadi, 2013). Therefore, it is important to conduct an in-depth study of the normative and practical roles of the CC and SC in building constitutional supremacy, as well as how synergy and boundaries between the two can be clarified to strengthen the state system.

Method

This study uses a normative juridical approach with qualitative analysis methods (Marzuki, 2005; Ibrahim, 2007). Primary data sources include legislation, decisions of the Constitutional Court and the Supreme Court, and relevant legal literature. Data collection techniques were carried out through library research, which included the analysis of written legal norms (laws and regulations), court rulings, and other legal documents related to the authority of the CC and SC (Hadjon et al., 2005). The study also uses a limited comparative approach by observing judicial review practices in several countries adopting the civil law and common law legal systems to gain a broader perspective (Stone Sweet, 2000).

Discussion

Normative Authority of the Constitutional Court

The Constitutional Court holds powers explicitly regulated in Article 24C of the 1945 Constitution. These include: (1) reviewing laws against the Constitution (judicial review), (2) deciding disputes between state institutions, (3) deciding the dissolution of political parties, (4) resolving electoral result disputes, and (5) ruling on Parliament's opinion concerning alleged violations committed by the President/Vice President (Asshiddiqie, 2006). In practice, the CC has also developed important doctrines such as constitutional complaint, constitutional question, and public involvement in constitutional judicial proceedings (Butt, 2015).

Normative Authority of the Supreme Court According to Article 24A of the 1945 Constitution and Law No. 5 of 1986 in conjunction with Law No. 9 of 2004 and Law No. 51 of 2009, the Supreme Court has the authority to adjudicate at the cassation level and review regulations under the law against the law (administrative judicial review)

(Soehino, 2004). This authority aims to maintain regulatory hierarchy and prevent the enactment of rules that contradict higher laws. In practice, the SC also guides judges across Indonesia and plays a strategic role in harmonizing the national legal system through jurisprudence (Supreme Court of Indonesia, 2024).

Practical Implementation and Overlapping Authorities

In reality, there is often a lack of synchronization between the normative powers of the CC and SC and their practical execution. Some Supreme Court rulings occasionally contradict the constitutional spirit developed by the Constitutional Court. Furthermore, jurisdictional overlaps in the review of regulations are also present, particularly when the SC rules on cases that actually concern constitutional norms (Jimly, 2007). This sparks debates regarding jurisdictional boundaries, the effectiveness of rulings, and the protection of citizens' constitutional rights (Fajril, 2020).

Comparative Perspectives from Other Legal Systems In civil law systems such as those in Germany and France, the division of authority between the Constitutional Court and the Supreme Court is very clear, where the Constitutional Court only has jurisdiction over constitutional issues, while the Supreme Court deals with ordinary law (Stone Sweet, 2000). In common law systems like the United States, there are no separate institutions; the Supreme Court holds all the judicial authority (Tegnan, 2015). This illustrates the importance of clear institutional design to avoid duplications or conflicts in implementing judicial review.

Implications for Constitutional Supremacy and Legal Reform The Constitutional Court and the Supreme Court play a decisive role in the direction of legal development and constitutional democracy in Indonesia. Nonetheless, strengthening synergy between the two institutions is essential for reaffirming constitutional supremacy. Reformulating the regulation of judicial review authority and jurisdictional division is crucial to prevent legal fragmentation and build a judicial system that is harmonious, consistent, and upholds substantive justice (Asshiddiqie, 2010).

Conclusion

The Constitutional Court and the Supreme Court occupy a very important position in Indonesia's constitutional system, especially in the effort to uphold constitutional supremacy. Both possess normative powers constitutionally and legally defined, and have evolving practical roles in maintaining the balance of power and law enforcement. However, in practice, several challenges remain, such as overlapping jurisdictions, inconsistent rulings, and a lack of coordination among top judicial institutions. A more explicit reformulation of the jurisdictional boundaries between the CC and SC is required, along with the strengthening of institutional synergy through coordination mechanisms and harmonization of decisions. The experience of other countries shows that a clear division of roles between constitutional and general courts is key to maintaining the effectiveness of judicial review and avoiding legitimacy crises.

Therefore, institutional strengthening and a legal framework that supports both roles are crucial to ensuring constitutional supremacy, protecting citizens' constitutional rights, and maintaining national legal stability.

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