

Judicial Review as a Fundamental Pillar for the Protection of Constitutional Supremacy

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Abstract

The principle of constitutional supremacy constitutes a fundamental foundation of a democratic rule-of-law state, positioning the constitution as the highest legal authority governing state power. Within the Indonesian constitutional framework, judicial review functions as a mechanism to ensure that legislative products and state actions remain consistent with the 1945 Constitution of the Republic of Indonesia and the values of constitutional democracy. This article aims to analyze the strategic role of judicial review in upholding constitutional supremacy and to examine its implications for strengthening constitutional democracy in Indonesia. This study employs a normative juridical legal research method combined with a descriptive approach. The research materials consist of primary legal sources, particularly the 1945 Constitution, as well as secondary sources derived from scholarly journals and constitutional law literature, which are analyzed qualitatively through legal interpretation and normative reasoning. The findings indicate that judicial review exercised by the Constitutional Court serves not only as a mechanism for reviewing the constitutionality of statutes, but also as an instrument for safeguarding constitutional

rights and maintaining the balance of power within a system of checks and balances. Nevertheless, the practice of judicial review has generated academic debate concerning the limits of judicial authority, particularly regarding constitutional interpretation with significant policy implications. This study concludes that judicial review is an essential element of constitutional democracy that must be exercised proportionally and consistently to ensure legal certainty and democratic legitimacy, and recommends strengthening its application based on the principle of judicial restraint.

Keywords: *Constitutional Supremacy, Judicial Review, Constitutional Court, Constitutional Democracy, Check and Balances*

A. Introduction

According to Asshiddiqie (2021), constitutional supremacy constitutes a fundamental principle in a democratic state that recognizes the constitution as the highest legal authority, serving as the foundation for regulating and limiting the exercise of state power, while simultaneously functioning as the primary mechanism for safeguarding citizens' fundamental rights.¹ In modern constitutional practice, constitutional supremacy and its underlying principles function not merely as written legal norms, but also as active mechanisms that ensure public policies and positive law remain within constitutional boundaries.² Alongside the continuous evolution of legal and political dynamics in response to societal developments, judicial review has emerged as a constitutional instrument that entrusts courts with the authority to supervise and correct legal products as well as governmental actions that are inconsistent with the constitution (Arifa et al., 2024).³ This mechanism represents a crucial pillar in safeguarding constitutional supremacy so that it does not remain merely rhetorical,

¹ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia* (Jakarta: Sinar Grafika, 2021), 19.

² Hasjad, H., et al., *Hukum Tata Negara: Teori, Sistem dan Praktik Ketatanegaraan Indonesia* (CV Gita Lentera, 2025), 17.

³ Rona Dwi Arifa, Firmansyah Putra, dan Muhammad Eriton, "Kewenangan Mahkamah Konstitusi dalam Melakukan Pengujian terhadap Kebijakan Hukum Terbuka," *Limbag: Journal of Constitutional Law* 4, no. 2 (2024): 267.

but is concretely implemented within a system of constitutional democracy.

Under the prevailing constitutional framework, the jurisdiction to assess the constitutionality of statutes in relation to Indonesia's 1945 Constitution is vested exclusively in the institution responsible for constitutional review and is not granted to other state institutions.⁴ The examination of the constitutionality of legislation in relation to constitutional norms is grounded in the theory of the hierarchy of legal principles, which conceives the legal system as being structured in a tiered and hierarchical manner, whereby lower (inferior) norms must derive from and must not contradict higher (superior) norms within a relationship of superordination and subordination.⁵ Within Indonesia's constitutional order, judicial review functions as a key mechanism for upholding constitutional supremacy, as reflected in Article 24(2) of Indonesia's 1945 Constitution, which recognizes the Constitutional Court as one of the institutions exercising judicial authority.⁶

"Judicial power shall be exercised by a Supreme Court and the judicial bodies under it within the general courts, religious courts, military courts, and administrative courts, and by a Constitutional Court."

This authority is expressly stipulated in Article 24C(1) of Indonesia's 1945 Constitution, which grants the Constitutional Court the power to assess the constitutionality of statutes.⁷

"The Constitutional Court shall have the authority to adjudicate at the first and final instance, and its decisions shall be final. The Court is authorized to review statutes against the Constitution, resolve disputes concerning the authority of state institutions, decide on the dissolution of political parties, and adjudicate disputes regarding general election results."

⁴Adhya Putri Alisya, "Pengujian Undang-Undang terhadap Undang-Undang Dasar oleh Mahkamah Konstitusi ditinjau dari Pasal 24C ayat (1) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Lex Administratum* 7, no. 3 (2019): 24.

⁵Dicky Eko Prasetyo dan Adam Ilyas, "Judicial Activism dalam Pengujian Konstitusionalitas Undang-Undang Ratifikasi," *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan* 13, no. 2 (2022): 253.

⁶Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 24 ayat (2).

⁷Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 24C ayat (1).

Furthermore, Article 24C paragraph (2) of the 1945 Constitution obliges the Constitutional Court to provide a decision or opinion on the House of Representatives' (*Dewan Perwakilan Rakyat/DPR*) allegation of constitutional violations committed by the President and/or the Vice President.⁸ Within this framework, the mandate of the Constitutional Court, including constitutional adjudication, is understood not merely as a mechanism for examining the constitutionality of statutes, but also as an instrument of constitutional oversight exercised within the mechanism of checks and balances.⁹ With the establishment of this institution of constitutional review, the frequency of statutory review has increased, reflecting the development of constitutional democracy in Indonesia and affirming the role of this institution in upholding the rule of law and popular sovereignty as fundamental principles of constitutionalism.

According to Firman (2024), In the process of constitutional adjudication, the Constitutional Court does not simply apply constitutional norms textually but also engages in dynamic interpretation through its judgments, thereby facilitating the progressive realization of constitutional principles.¹⁰ This situation has generated scholarly debate regarding the boundaries of the powers of constitutional courts in shaping constitutional norms (Marali et al., 2025).¹¹ Such debates primarily relate to efforts to maintain a balance between upholding the supremacy of the constitution and respecting democratic principles as manifested through the role of representative institutions. Accordingly, constitutional review should be understood not only as a judicial procedure, but also as a constitutional and political

⁸ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 24C ayat (2).

⁹ Yudhan Wahyu Illahi, "Memahami *Judicial Review* sebagai Upaya untuk Mempertahankan Supremasi Konstitusi," *Pajak.go.id*, diakses 12 Februari 2026, <https://www.pajak.go.id/id/artikel/memahami-judicial-review-sebagai-upaya-untuk-mempertahankan-supremasi-konstitusi>

¹⁰ Firman, "Aktivisme Yudisial dalam Putusan Mahkamah Konstitusi," *Indonesian Journal of Innovation Multidisipliner Research* 2, no. 4 (2024): 319.

¹¹ Syahreza Ali Akbar Marali, Erman I. Rahim, dan Ahmad, "Penerapan Batas Kewenangan Mahkamah Konstitusi dalam Memutus Norma yang Bersifat *Open Legal Policy*," *Legal Advice: Journal of Law* 2, no. 2 (2025): 61.

phenomenon that must be examined within the framework of democracy and the rule of law (Sevtiya, 2025).¹²

Despite the growing body of scholarship discussing constitutional adjudication and the authority of constitutional courts, many existing studies primarily emphasize the institutional competence of the Constitutional Court and the legal consequences of its decisions within the Indonesian legal system. However, relatively limited attention has been devoted to examining constitutional review as an integrated mechanism for safeguarding constitutional supremacy within the broader framework of constitutional democracy. Consequently, there remains a need for a more comprehensive academic discussion that connects theoretical perspectives on constitutional supremacy with the practical implementation of judicial review and its implications for the protection of citizens' constitutional rights and the balance of state power.

This article aims to further develop the study conducted by Winanta and Erliyana (2025), "*Kewenangan Judicial Review oleh Mahkamah Konstitusi dan Implikasinya terhadap Sistem Hukum di Indonesia*" [*Judicial Review Authority of the Constitutional Court and Its Implications for the Indonesian Legal System*], by examining the strategic importance of constitutional review as a mechanism for safeguarding constitutional supremacy as stipulated in Article 24C(1) of Indonesia's 1945 Constitution.¹³ This research provides an academic contribution through an integrative approach that combines theoretical analysis within the domain of constitutional law with an examination of juridical practice, thereby positioning judicial review not solely as a mechanism for assessing legal norms but also as a constitutional instrument for safeguarding citizens' constitutional rights and preserving the balance of power within a constitutional democratic framework.

¹² Sevtiya dan Fanny Ayu, "Eksistensi Konstitusi dalam Pembentukan Hukum Nasional: Perspektif Hukum dan Demokrasi," *Jurnal Renvoi: Jurnal Hukum dan Syariah* 3, no. 2 (2025): 87.

¹³ Rendro Prastyan Winanta dan Anna Erliyana, "Kewenangan Judicial Review oleh Mahkamah Konstitusi dan Implikasinya terhadap Sistem Hukum di Indonesia," *Santhet: Jurnal Sejarah, Pendidikan dan Humaniora* 9, no. 1 (2025): 401.

This article aims to systematically and critically examine the institutional role of constitutional review in upholding constitutional supremacy and its implications for the consolidation of constitutional democracy. The discussion is organized into several parts, including the research methodology, a conceptual analysis of constitutional supremacy, an examination of the function of constitutional adjudication within a democratic constitutional order, and a concluding section that summarizes the findings and offers normative recommendations for strengthening constitutional adjudication in the future.

This study employs a normative juridical research method with a descriptive analytical approach to examine the authority of the Constitutional Court in conducting constitutional review and its implications for Indonesia's constitutional and legal system. The normative juridical approach focuses on the analysis of legal norms contained in the 1945 Constitution of the Republic of Indonesia, statutory regulations, and Constitutional Court decisions related to judicial review (Wiraguna, 2025).¹⁴ In addition, the descriptive approach is used to explain the institutional role and responsibilities of the Constitutional Court in performing constitutional adjudication and maintaining the balance of state power in accordance with constitutional provisions (Christie et al., 2025).¹⁵ The research relies on both primary and secondary legal materials, including constitutional and legislative documents, legal scholarship, academic journals, and official publications issued by the Constitutional Court. Data were collected through library research by systematically identifying, classifying, and examining relevant legal materials. Furthermore, qualitative analysis was applied to evaluate the legal reasoning and operative rulings contained in Constitutional Court decisions concerning judicial review, in order to

¹⁴ Wiraguna, "Metode Normatif dan Empiris dalam Penelitian Hukum: Studi Eksploratif di Indonesia," *Public Sphere: Jurnal Sosial Politik, Pemerintahan dan Hukum* 3, no. 3 (2024): 58.

¹⁵ R. Christie, M. Michaela, dan N. R. Tuasikal, "Peran Mahkamah Konstitusi dalam Menjaga Supremasi Hukum dan Kedaulatan Negara di Indonesia," *Journal of Accounting Law Communication and Technology* 2, no. 1 (2024): 208.

understand their implications for public policy and the protection of citizens' constitutional rights.

B. Discussion

I. Judicial Review as an Instrument for Safeguarding Constitutional Supremacy

Judicial review constitutes one of the fundamental instruments within modern constitutional systems, serving to uphold constitutional supremacy while simultaneously ensuring that democratic governance operates within the framework of law.¹⁶ Under a constitutional democratic framework, such a mechanism functions as a safeguard to ensure that the exercise of state power remains consistent with constitutional principles, the protection of human rights, and the rule-of-law doctrine. In the Indonesian constitutional system, the authority to review the constitutionality of statutes is entrusted to the Constitutional Court as the institution responsible for constitutional adjudication. The existence of this review mechanism not only underscores the constitution's status as the supreme legal norm but also fosters a dynamic balance between popular sovereignty, the supremacy of law, and rational public policy-making within the structure of constitutional governance.

1. Constitutional Supremacy within the Framework of Constitutional Democracy

According to Alfidyah (2025), Within democratic governance based on the rule-of-law principle, constitutional supremacy is understood as a basic normative foundation that positions the constitution as the supreme legal authority and guides the actions and decisions of governmental bodies.¹⁷ This principle functions not only as a norm regulating the exercise of power, but also as a controlling mechanism to

¹⁶ I. N. C. Y. Simanjuntak dan W. Silalahi, "Efektivitas *Legislative, Executive, dan Judicial Review* dalam Menjaga Supremasi Konstitusi dan Hak Warga di Era Digital," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 12, no. 11 (2025): 4314.

¹⁷ Miftah Alfidyah, "Konstitusi sebagai Fondasi Hukum Tertinggi Negara," *Jurnal Hukum Tata Negara dan Konstitusi*, 1, no. 1 (2025) : 8.

ensure that democratic practices operate within legal boundaries that guarantee justice and the protection of citizens' fundamental rights (Wustqah & Erham, 2024).¹⁸ For this reason, the functioning of democratic governance in modern states presupposes the presence of a constitution that legitimizes political authority while also establishing boundaries for the exercise of state power.

Democracy from the perspective of constitutional law is understood as a system of government that places the source of power in the people, while its implementation is carried out through constitutionally regulated procedures and institutions. This concept is employed in constitutional law and political science scholarship to explain that, in modern constitutional practice, there is no exercise of power that is entirely absolute; therefore, the realization of the popular will cannot be carried out freely without limitation, but must be framed by constitutional norms governing the distribution of powers, representative mechanisms, and the protection of fundamental rights.¹⁹ Accordingly, constitutional democracy encompasses two inseparable elements, namely popular sovereignty and the supremacy of law.

In the study by Kansil & Nadilatasya (2024) entitled "*Dampak Putusan Mahkamah Konstitusi terhadap Dinamika Politik dan Kepercayaan Publik di Indonesia: Analisis Implikasi Hukum dan Etika*" [*The Impact of Constitutional Court Decisions on Political Dynamics and Public Trust in Indonesia: An Analysis of Legal and Ethical Implications*], it is argued that without effective constitutional mechanisms, democracy risks being reduced to majority rule that neglects the principles of minority rights protection, justice, and legal certainty.²⁰ In this regard, the constitution's position as the highest legal authority acts as a guiding framework to ensure that democratic developments continue to reflect the foundational principles articulated in the constitutional structure. Judicial review subsequently emerges as a mechanism to assess whether

¹⁸ Urwatul Wustqah dan Erham, "Diskursus Pembatasan Kekuasaan di Indonesia dalam Perspektif Konstitusi dan Konstitusionalisme," *Jurnal Citizenship Virtues* 4, no. 2 (2024): 776.

¹⁹ Ibid., 781

²⁰ Christine S. T. Kansil dan Putri Meilika Nadilatasya, "Dampak Putusan Mahkamah Konstitusi terhadap Dinamika Politik dan Kepercayaan Publik di Indonesia: Analisis Implikasi Hukum dan Etika," *UNES Law Review* 6, no. 4 (2024): 10754.

legal products and public policies generated through political processes are consistent with these principles.²¹

Accordingly, constitutional supremacy and constitutional democracy form a mutually reinforcing relationship. Constitutional supremacy provides normative boundaries for democracy, while democracy confers political legitimacy upon the operation of the constitution. Judicial review serves as the connecting mechanism between the two by ensuring that the political will of the people, as embodied in legislation, remains consistent with constitutional values.

2. *The Constitutional Basis of Judicial Review in Indonesia*

Indonesia's constitutional framework recognizes the Constitutional Court as a central institution endowed with constitutional powers to safeguard the supremacy of the highest legal norms. This position is the result of constitutional amendments aimed at strengthening the principle of constitutionalism by providing a mechanism for overseeing legal products generated by political institutions (Budiman & SH, 2025).²² In normative terms, the constitutional amendments affirm the Constitutional Court's role within the judicial branch. Article 24 paragraph (2) of the 1945 Constitution of the Republic of Indonesia explicitly states that judicial power is exercised by the Supreme Court and the Constitutional Court (Silaban & Kosariza, 2021).²³ Within the structure of judicial authority, the Constitutional Court stands on an equal footing with the Supreme Court, yet possesses distinct powers

²¹ Yudhan Wahyu Illahi, "Apa Itu *Judicial Review* di Mahkamah Konstitusi? Pemahaman Lengkap dan Contohnya," *kab-yahukimo.kpu.go.id*, diakses 13 Februari 2026, <https://kab-yahukimo.kpu.go.id/blog/read/8507-apa-itu-judicial-review-di-mahkamah-konstitusi-pemahaman-lengkap-dan-contohnya>

²² E. A. Budiman dan M. SH, "Struktur Kekuasaan dan Konstitusi," dalam *Pengantar Hukum Publik* (2025), 47–48.

²³ Virto Silaban dan Kosariza, "Kedudukan Mahkamah Konstitusi dalam Sistem Ketatanegaraan Republik Indonesia," *Limbago: Journal of Constitutional Law* 1, no. 1 (2021): 64.

that are specific in nature and directly derived from the Constitution (Ru'ati et al., 2022).²⁴

One of the principal powers of this institution is to conduct judicial review of statutes. The Constitutional Court exercises the authority to examine the constitutionality of legislative enactments by assessing their consistency with constitutional norms. This authority is grounded in Article 24C(1) of the Indonesia's 1945 Constitution, which expressly confers upon the Court the power to review statutes in light of the Constitution.²⁵ In this context, judicial review is not understood merely as a formal process of testing legal norms, but rather as a substantive mechanism to ensure that the formation of national law remains consistent with constitutional foundations and the principles of constitutional democracy (Kushadianto & Putra, 2024).²⁶

In constitutional practice, the implementation of judicial review plays a crucial role in correcting legislative products that potentially violate or are inconsistent with the rights of the public. Research findings demonstrate that rulings of the Constitutional Court in statutory review proceedings frequently contribute to the protection of constitutional rights while also reinforcing the principle of legal supremacy (Salam & Kurniasih, 2025).²⁷ The Indonesia's 1945 Constitution, particularly Article 24C(1), establishes that decisions rendered by the Constitutional Court are final and binding. Consequently, the outcomes of judicial review operate *erga omnes*, thereby imposing legal effects on both citizens and state institutions (Nugroho, 2019).²⁸ The exercise of this authority positions the Constitutional Court as an institutional safeguard that balances the

²⁴ Amien Ru'ati, Garciano Nirahua, dan Ronny Soplantila, "Kekuatan Eksekutorial Putusan Mahkamah Konstitusi yang Bersifat Final dan Mengikat di Indonesia," *Pattimura Legal Journal* 1, no. 1 (2022): 22.

²⁵ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 24C ayat (1).

²⁶ Miftahul Murachim Budy Kushadianto dan Marsudi Dedi Putra, "Implikasi Hierarki Hukum dalam Pembentukan Undang-Undang: Pengaruhnya terhadap Penafsiran dan Penegakan Hukum," *Syntax Idea* 6, no. 3 (2024): 2.

²⁷ Shelli Nur Salam dan Kurniasih, "Implikasi Putusan Mahkamah Konstitusi terhadap Demokrasi di Indonesia: Studi Yuridis-Normatif," *PERKARA: Jurnal Ilmu Hukum dan Politik* 3, no. 1 (2025): 791.

²⁸ Fadzlun Budi Sulistyog Nugroho, "Sifat Keberlakuan Asas *Erga Omnes* dan Implementasi Putusan Mahkamah Konstitusi," *Gorontalo Law Review* 2, no. 2 (Oktober 2019): 96–97.

powers of the legislative and executive branches within the framework of checks and balances (Kurniawati & Rohmah, 2024).²⁹

However, the exercise of judicial review also gives rise to complex constitutional dynamics. As part of its judicial review function, the Constitutional Court plays a supervisory role in ensuring the supremacy of the Constitution and preventing excessive use of legislative power during the law-making process. Nevertheless, this expanding role has also raised debates about the limits of judicial engagement in shaping public policy.³⁰

Besides its judicial review authority, the Constitutional Court is also vested with additional constitutional functions under Article 24C(2) of the Indonesia's 1945 Constitution. One such function is deciding on the opinion of the House of Representatives regarding alleged constitutional violations committed by the President and/or Vice President, which reflects the Court's institutional role in safeguarding constitutional stability and maintaining control over the exercise of governmental power.³¹ In this context, judicial review must be understood as an integral component of the constitutional design intended to maintain the balance of power among the branches of government (*checks and balances*). Accordingly, the exercise of judicial review should be construed as a constitutional authority carried out in a proportional manner, while continuing to respect democratic principles and the constitutional prerogatives of representative institutions.

The study by Sulaiman & Saifulloh (2024), entitled "*Urgensi Perlindungan Hak Konstitusional Warga Negara melalui Pemberian Kewenangan kepada Mahkamah Konstitusi dalam Memutus Constitutional Question*" [*Urgency of Protecting Citizens' Constitutional Rights through Granting Authority to the Constitutional Court in Deciding Constitutional Questions*] positions judicial

²⁹ D. Kurniawati dan E. I. Rohmah, "Peran Mahkamah Konstitusi dalam Penguatan Prinsip *Checks and Balances* dalam Sistem Ketatanegaraan Indonesia," *Qaumiyah: Jurnal Hukum Tata Negara* 5, no. 2 (2024): 184.

³⁰ *Ibid.*, 192.

³¹ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 24C ayat (2).

review as a normative authority of the Constitutional Court.³² This study emphasizes that judicial review performs a broader constitutional function, namely as an instrument for maintaining the balance between constitutional supremacy and democratic legitimacy. Accordingly, judicial review is not solely oriented toward the annulment of unconstitutional legal norms, but also plays a role in shaping the practice of constitutional democracy grounded in the rule of law.

3. *Judicial Review and the Formation of Public Legal Rationality in Constitutional Governance*

From the perspective of a modern constitutional order grounded in the rule of law, judicial review is not limited to the scrutiny of legal norms; it also plays a role in fostering and shaping public legal rationality. Public legal rationality is understood as a process of structuring the mindset and actions of state authorities so that the policies and regulations they produce can be constitutionally accountable, logically coherent, and grounded in legal values (Suriani et al., 2025).³³ Within this framework, judicial review serves as an institutional medium that connects constitutional norms with the concrete practice of exercising state power.

The existence of judicial review within Indonesia's constitutional system is closely connected to both the structure of the constitutional system and the needs of national law. From a systemic perspective, judicial review can only be implemented in a state that adheres to the principle of *trias politica*, namely the separation of powers among the legislative, executive, and judicial branches (Andiraharja, 2021).³⁴ From a normative legal perspective, judicial review is legitimized by the *Stufenbau theory*, which asserts that norms at a lower level must remain

³² Dindha Shahrazade Sulaiman dan Putra Perdana Ahmad Saifulloh, "Urgensi Perlindungan Hak Konstitusional Warga Negara melalui Pemberian Kewenangan kepada Mahkamah Konstitusi dalam Memutus *Constitutional Question*," *Jurnal Hukum Sasana* 9, no. 2 (2024): 269.

³³ Suriani, R., E. Saputra, M. Sintha, I. Aprillina, W. Winarti, G. Apriani, et al., *Hukum Kebijakan Publik di Indonesia* (Star Digital Publishing, 2025), 17.

³⁴ Diyar Ginanjar Andiraharja, "Judicial Review oleh Mahkamah Konstitusi sebagai Fungsi Ajudikasi Konstitusional di Indonesia," *Khazanah Hukum* 3, no. 2 (2021): 73.

consistent with higher norms, as expressed in the doctrine of *lex superior derogat legi inferiori*.³⁵ The use of the proportionality principle in the review of statutes emphasizes its role in safeguarding the equilibrium between governmental authority and the protection of constitutional rights. In this regard, constitutional review does not solely examine the formal conformity of legal norms with the Constitution but also assesses the rationality and proportionality of public policies as a reflection of the commitment to human rights (Rizkia et al., 2025).³⁶ Accordingly, judicial review contributes to enhancing the quality of the legislative process by encouraging the formulation of regulations that not only satisfy procedural requirements but also possess substantive legitimacy from a constitutional perspective.

In constitutional practice, judicial review plays a significant role in shaping standards of legal rationality within the legislative process. A crucial issue in formal review concerns legal certainty regarding the implications of the annulment of statutes, since, from a theoretical perspective, norms enacted through procedurally defective legislative processes should lose their binding force *ab initio*. In this context, decisions on statutory review do not merely result in the annulment or affirmation of the validity of legal norms, but also construct a framework of constitutional reasoning that may serve as a reference for legislators in formulating regulations that are both procedurally sound and democratically grounded.³⁷ In practice, judges are often subject to criticism on the grounds that their legal reasoning is perceived as assuming the role of the legislator and exceeding judicial authority.³⁸ Nevertheless, through well-argued legal reasoning, judicial review in fact

³⁵ Sri Warjiyati, Zeti Nofita Sari, Safrin Salam, dan Arif Firdaus Ananda, "Norm Clash in *Lex Superior Derogat Legi Inferiori* Principle's Implementation on Circular Letters and Laws," *Reformasi Hukum* 28, no. 3 (2024): 235–236.

³⁶ S. N. Rizkia, Muhamad Rizki Ramadhan, Syauqi Alghifari Akmal, dan Asmak Ul Hosnah, "Penerapan Asas Proporsionalitas oleh Mahkamah Konstitusi dalam Pengujian Undang-Undang," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 3, no. 4 (2025): 3318.

³⁷ Teguh Satya Bhakti, "Kepastian Hukum dalam Pengujian Formil Undang-Undang oleh Mahkamah Konstitusi di Indonesia terkait Inkonsistensi Putusan, Batas Waktu Pengujian, dan Implikasi Pembatalan Undang-Undang," *Jurnal Ilmiah Global Education* 6, no. 4 (2025): 2687.

³⁸ Andiraharja, *op. cit.*, 75.

functions to encourage legislators to formulate legal policies that are more measured, rational, and consistent with constitutional principles, without displacing the constitutionally vested legislative authority of the legislature.³⁹

Rishan (2024) explains that through judicial review, the Constitutional Court serves to restrain the dominance of majority political forces in parliament within the law-making process, while simultaneously operating as a tool for evaluating the quality of legal policies produced through political interactions.⁴⁰ In this context, constitutional review does not merely assess the formal conformity of legal norms with the Constitution, but also evaluates the rationality, proportionality, and orientation toward the protection of constitutional rights within legal policies, which are directly related to the fulfillment of the principle of meaningful public participation through substantive public involvement in the law-making process (Sari & Wiraguna, 2025).⁴¹ Accordingly, judicial review contributes to the development of a more accountable culture of law-making grounded in public legal rationality.

The role of judicial review in shaping public legal rationality is also closely related to efforts to maintain a balance between political dynamics and the stability of constitutional norms. Legislative processes influenced by short-term interests have the potential to produce regulations that insufficiently consider their constitutional implications and undermine public trust (Lubis & Ikram, 2025).⁴² In this regard, the Constitutional Court plays an important role as a balancing institution that upholds constitutional legality and protects the rights of citizens

³⁹ Selfianus Laritmas, *Hukum Perancangan Peraturan Perundang-Undangan: Teori, Praktik, dan Teknik Penyusunan* (Jakarta: PT Revormasi Jangkar Philosophia, 2026), 136.

⁴⁰ Rishan, I., "Abusive Judicial Review: Skandal Minimum Usia dan Disfungsi Mahkamah Konstitusi," *Undang: Jurnal Hukum* 7, no. 1 (2024): 120.

⁴¹ Kamelia Yunita Sari dan Sidi Ahyar Wiraguna, "Dinamika Yuridis Proses Perkara Pengujian Formil Undang-Undang di Mahkamah Konstitusi Indonesia," *Jurnal Kontekstualisasi Hukum dan Masyarakat* 6, no. 2 (Juni 2025): 32.

⁴² H. Lubis, L. Dwi, dan M. Ikram, *Dinamika Intervensi Politik dalam Pembentukan Regulasi di Indonesia*, *Jurnal Ilmiah Mahasiswa Dakwah Dan Ilmu Komunikasi* 2, no. 1 (2025).

(Tarigan, 2024).⁴³ Judicial review thus serves to ensure that policy changes continue to operate within constitutional boundaries.

From another perspective, the existence of judicial review also strengthens the educational dimension of the legal system. In practice, the dominance of majority interests in parliament influencing the legislative process, coupled with the increasingly integrated relationship between the President and the House of Representatives and the limited scope of public participation and substantive assessment in the drafting of bills, underscores the importance of judicial review and the formulation of transparent and well-argued legal reasoning as instruments of constitutional oversight as well as learning mechanisms for legislators and the public, so that the validity of statutes remains grounded in proper procedures, political ethics, and public utility (Athalia et al., 2023).⁴⁴ Through this process, the public is able to understand the constitutional reasoning underlying the acceptance or rejection of legal norms, thereby enabling judicial review to contribute to the enhancement of legal awareness and public understanding of constitutional values.

In this context, the court's review of legislative enactments plays a dual role: it supervises legislative outputs while simultaneously contributing to the development of public legal rationality. This function places such review in a strategic position in ensuring that the process of law-making and its implementation in Indonesia remain guided by constitutional values, policy rationality, and the public interest within a democratic legal state.⁴⁵

⁴³ R. S. Tarigan, *Konstitusi dan Kekuasaan: Studi Kasus dalam Hukum Tata Negara* (Ruang Karya Bersama, 2024), 85.

⁴⁴ Anindya Dewi Athalia et al., "Pentingnya Memahami Proses Pengujian Undang-Undang Terhadap Undang-Undang Dasar (Judicial Review) di Mahkamah Konstitusi Guna Meningkatkan Kepekaan Terhadap Peraturan yang Berlaku pada Masyarakat Demokrasi," *Veteran Society Journal* 4, no. 2 (2023): 259.

⁴⁵ R. S. Tarigan, *op. cit.*, 31.

II. The Implications of Judicial Review for Constitutional Democracy in Indonesia

The implications of the implementation of judicial review within Indonesia's constitutional system are reflected not only in the review of legal norms, but also exert a direct influence on the quality of constitutional democracy. In exercising its statutory review authority, the Constitutional Court plays a pivotal role in ensuring that democratic processes are conducted in accordance with the safeguarding constitutional rights, the balance of powers among state institutions, and the constitutional legitimacy underlying the formulation and implementation of public policies. Accordingly, the position of the Constitutional Court cannot be narrowly confined to that of an institution tasked merely with interpreting constitutional provisions, but must also be understood as a body that holds a strategic role in shaping and directing the dynamics of constitutional democratic development.⁴⁶ Nevertheless, the exercise of judicial review also gives rise to constitutional dynamics and debates, particularly concerning the limits of judicial authority, the consistency of judicial decisions, and their relationship with the principles of representative democracy. Therefore, an examination of the implications of judicial review is essential to assess the extent to which this mechanism contributes to strengthening the protection of constitutional rights, maintaining checks and balances, and building constitutional legitimacy within the practice of constitutional democracy in Indonesia.

1. *Protection of Citizens' Constitutional Rights through Judicial Review*

A major implication of the court's examination of legislative enactments is the reinforcement of safeguards for citizens' constitutional rights. In a constitutional democracy, the formal acknowledgment of fundamental rights cannot be limited to

⁴⁶ S. Radjak dan A. Ahmad, "Menguji Batas Kewenangan: Tafsir Mahkamah Konstitusi atas UUD 1945 dalam Dinamika Demokrasi Modern," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 3 (2025): 1805.

constitutional texts alone but requires effective institutional mechanisms to ensure their enforcement.⁴⁷ Judicial review provides a judicial avenue for citizens to challenge statutes that are deemed to infringe upon or neglect their constitutional rights.

According to Irwan & Saleh (2025), in constitutional practice, the Constitutional Court, through various decisions on statutory review, has annulled or reinterpreted legal norms deemed to be inconsistent with the fundamental principles of citizens' constitutional rights.⁴⁸ These decisions reflect the function of judicial review as a constitutional oversight instrument that operates preventively to avert the enactment of unconstitutional norms, while simultaneously functioning repressively to correct legislative products that potentially deviate from constitutional values. The implications of this practice affirm that democracy is not realized solely through mechanisms of political representation, but also through the guarantee of constitutional rights that can be judicially enforced, thereby enabling a balanced relationship between the principles of popular sovereignty and the supremacy of law.

On the other hand, several decisions of the Constitutional Court indicate the existence of tension between the need for legal certainty and the exercise of flexibility in judicial interpretation. In certain cases, the Constitutional Court has been criticized for the absence of clear limitations or criteria defining the scope of such flexibility (Bhakti, 2025).⁴⁹ This situation may give rise to unfavorable ramifications for the constitutional system, including declining public confidence in the constitutional court as the institution tasked with safeguarding the constitution, while simultaneously creating uncertainty in the trajectory of legal policy, particularly in the review of strategic statutes.⁵⁰ Therefore, clarity and consistency in the court's review of legislation are essential to ensure that the enforcement of constitutional supremacy

⁴⁷ Sulaiman dan Saifulloh, *op. cit.*, 272.

⁴⁸ Muhamad Irwan dan Moh. Saleh, "Mahkamah Konstitusi sebagai *Negative Legislator*: Analisis Peran dan Batasan dalam Pembatalan Undang-Undang," *Legal Standing: Jurnal Ilmu Hukum* 9, no. 5 (2025): 1232.

⁴⁹ Bhakti, *op. cit.*, 2869.

⁵⁰ *Ibid.*

remains aligned with democratic principles and legal certainty, thereby enabling the exercise of state power to remain controlled within the constitutional framework.

2. Critiques of the Limits of Judicial Review Authority in Constitutional Democracy

The implementation of legislative review exercised by the Constitutional Court in Indonesia carries significant implications for strengthening the principle of constitutional supremacy within the framework of constitutional democracy. Within Indonesia's constitutional framework, the Constitutional Court performs an essential role in preserving constitutional supremacy and ensuring the protection of citizens' constitutional rights. In addition, it acts as an institutional mechanism that guarantees that every legislative enactment remains consistent with the 1945 Constitution (UUD 1945) and the core constitutional values of the state.⁵¹ Through this authority, the Constitutional Court acts as a check against the potential dominance of political interests in the legislative process by rejecting or annulling legal norms that are declared contrary to the Constitution (unconstitutional).⁵² Empirical findings in several studies indicate that this function reinforces the position of the Constitution as the highest norm within the national legal system, while also conferring legitimacy upon judicial review as an essential constitutional instrument for the effective operation of a healthy democratic system in Indonesia.

Furthermore, judicial review also exerts a significant impact on the protection of citizens' constitutional rights, which constitute a fundamental element of constitutional democracy.⁵³ Through its decisions, the Constitutional Court (*Mahkamah Konstitusi*) not only examines the conformity of statutory norms with the Constitution, but also provides an institutional mechanism through which citizens may safeguard themselves against regulations that infringe upon and are

⁵¹ Irwan dan Saleh, *op. cit.*, 1234.

⁵² L. Nasir, S. Rijal, dan M. A. Akbar, "Kedudukan Putusan Mahkamah Konstitusi dalam Pembentukan Undang-Undang di Indonesia," *Jurnal USM Law Review* 8, no. 2 (2025): 631.

⁵³ *Ibid.*, 633.

inconsistent with their fundamental rights. The process of reviewing legislation through judicial scrutiny has resulted in the invalidation of statutory norms that are incompatible with fundamental constitutional protections and the principles of constitutional governance, thereby consolidating the role of the Constitutional Court as the institution entrusted with upholding constitutional guarantees and preserving the supremacy of the Constitution. Accordingly, formal review through the mechanism of judicial review does not merely operate as an instrument of constitutional control over the legislative process, but also strengthens the interrelationship between legal norms, the maintenance of citizens' constitutional guarantees, and the consolidation of constitutional democratic practice in Indonesia.⁵⁴

According to Duda et al. (2026), the implementation of judicial review also has implications for the structural balance of authority among governmental institutions, particularly between the legislative and executive branches.⁵⁵ This mechanism functions as a form of judicial oversight that prevents the excessive concentration of power, especially in the process of law-making.⁵⁶ Nevertheless, the authority of judicial review is subject to clear constitutional limitations. Within Indonesia's constitutional framework, the body exercising constitutional jurisdiction is granted authority only to scrutinize statutes for their conformity with the 1945 Constitution (UUD 1945) and is not empowered to create new legal norms. Accordingly, its position is more accurately characterized as that of a negative legislator rather than a law-making body.⁵⁷

"If the Court does not restrain itself by adhering to a rigid interpretation, but instead engages in an excessively expansive interpretation of the provisions

⁵⁴ Kamelia Yunita Sari dan Sidi Ahyar Wiraguna, *op. cit.*, 29.

⁵⁵ Lia Mastaria Duda, Roslan Ishak, Mahmud Ahmad, dan Nurwita Ismail, "Implementasi Prinsip *Checks and Balances* melalui Penguatan Fungsi Dewan Perwakilan Rakyat dalam Sistem Ketatanegaraan Indonesia," *Equality: Law and Social* 1, no. 3 (2026): 196.

⁵⁶ Irwan dan Saleh, *op. cit.*, 1234.

⁵⁷ Mahkamah Konstitusi Republik Indonesia, Putusan Mahkamah Konstitusi Nomor 1-2/PUU-XII/2014 tentang *Pengujian Undang-Undang Nomor 4 Tahun 2014 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2013 tentang Perubahan Kedua atas Undang-Undang Nomor 24 Tahun 2003 tentang Mahkamah Konstitusi*, 106–107.

governing state institutions under the 1945 Constitution, it would effectively mean ... that the Court itself assumes the function of the constitutional framer in amending the 1945 Constitution through its decisions. It is indeed correct that the Court is the interpreter of the 1945 Constitution—that is, it interprets provisions that may give rise to multiple meanings; however, such interpretation must be situated within the framework of safeguarding and upholding the 1945 Constitution without altering the Constitution itself.”

The concept of judicial restraint within the context of the Constitutional Court, as reflected in the legal reasoning of Constitutional Court Decision Number 1-2/PUU-XII/2014, emphasizes that the Court must exercise self-restraint in order to avoid exceeding its authority as an interpreter of the Constitution. This view is further supported by academic scholarship, which argues that such limitations are necessary to prevent the Court from transforming into an institution that excessively dominates public policymaking (Hantoro, 2024).⁵⁸ These debates demonstrate that judicial review is not merely a legal mechanism but also a constitutional phenomenon with both juridical and political dimensions, and therefore should be understood within a framework that maintains a balance between constitutional supremacy and the principles of representative democracy.

One of the most recent and highly controversial cases concerns the judicial review of Article 169 letter (q) of Law Number 7 of 2017 on General Elections, which regulates the minimum age requirement for presidential and vice-presidential candidates, set at no less than 40 years.⁵⁹ On 16 October 2023, the Constitutional Court rendered Decision Number 90/PUU-XXI/2023, introducing a conditional interpretation of the provision.⁶⁰ The Court partially granted the petition, declaring that the minimum age requirement of 40 years is

⁵⁸ B. F. Hantoro, “Pembatasan Yudisial dan Perluasan Kewenangan Mahkamah Konstitusi dalam Memutus Sengketa Hasil Pilkada,” *Media Iuris* 7, no. 1 (2024): 125.

⁵⁹ Elva Imeldatur Rohmah, “Dinamika Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 Tentang Persyaratan Usia Calon Presiden dan Wakil Presiden,” *PROGRESIF: Jurnal Hukum* 18, no. 1 (2024): 112.

⁶⁰ Mahkamah Konstitusi Republik Indonesia. Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 tentang *Pengujian Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan Umum terkait batas usia calon Presiden dan Wakil Presiden*.

inconsistent with the 1945 Constitution insofar as it is not interpreted to include individuals who have previously held or currently hold public office obtained through general elections. Accordingly, the Court did not abolish the age requirement; rather, it introduced an alternative exception to the rule. This decision not only assessed the constitutionality of the norm but also expanded the meaning of the age requirement by effectively constructing a new normative framework, thereby directly influencing the legal structure of electoral regulations and the broader dynamics of electoral politics (Rohmah, 2024).⁶¹

In this context, it is essential to examine the *ratio decidendi* of Constitutional Court Decision Number 90/PUU-XXI/2023, which demonstrates that the Court did not merely assess the constitutionality of the provision through a textual approach, but also employed a progressive interpretation by extending the meaning of Article 169 letter (q) of the Election Law. The Court maintained that the minimum age requirement of 40 years remains applicable; however, it must be interpreted alternatively to include individuals who have previously held or currently hold public office obtained through general elections. From the perspective of the *narrowest ground rule*, such an expansion of meaning should be construed in a limited and proportional manner, only to the extent necessary to ensure the protection of constitutional rights, without evolving into an overly broad creation of new norms.⁶² This reasoning is grounded in considerations of equal opportunity in governance, as well as the relevance of prior public office experience as an indicator of leadership capacity. Accordingly, the *ratio decidendi* of this decision reflects a shift from a restrictive approach toward a more substantive approach in evaluating the constitutional rights of citizens.

Nevertheless, when compared to earlier decisions, such as Decision Number 49/PUU-IX/2011 and Decision Number 005/PUU-IV/2006 which likewise generated debate regarding potential conflicts of interest and the expansion of the Court's interpretative authority a pattern of inconsistency in the application of the principle of judicial restraint

⁶¹ Rohmah, *op. cit.*, 122.

⁶² B. F. Hantoro, *op. cit.*, 161.

becomes apparent.⁶³ On the one hand, the Court consistently affirms its role as a negative legislator; on the other hand, in Decision Number 90/PUU-XXI/2023, it effectively introduced a new norm through an additive form of conditional interpretation. This comparison suggests that the practice of judicial review in Indonesia has not yet fully maintained a consistent boundary between judicial and legislative functions.

Nonetheless, the decision has generated debate not only from a legal standpoint but also in terms of judicial ethics. In the dissenting opinions expressed by several constitutional justices most notably Saldi Isra irregularities in the decision-making process were highlighted, including rapid shifts in judicial positions and the involvement of the Chief Justice at the final stage of deliberation (Aldani, 2026).⁶⁴ Furthermore, the dissenting opinions pointed out that the petition had initially been withdrawn and subsequently refiled, raising concerns regarding the consistency of procedural conduct. These circumstances indicate that the divergence of views extends beyond substantive legal issues to encompass procedural integrity and the credibility of the judicial process.

Furthermore, from the perspective of the principle of *nemo judex in causa sua*, this decision has sparked significant debate regarding judicial impartiality. The existence of familial ties between one of the constitutional justices and a party indirectly connected to the case has raised concerns about a potential conflict of interest. The principle of *nemo judex in causa sua* establishes that a judge must not adjudicate a matter in which they have a personal interest, whether direct or indirect.⁶⁵ In this context, the ruling of the Constitutional Court's Honorary Council (MKMK), which found a serious violation of judicial ethics, further reinforces the argument that the legitimacy of a judicial decision is determined not solely by its formal legal validity, but also by the integrity of the decision-making process.

⁶³ A. R. Aldani dan M. SH, *Mahkamah Konstitusi Di Persimpangan Etika: Asas Nemo Judex In Causa Sua dan Kontroversi Putusan Batas Usia Capres* (2026), 4–5.

⁶⁴ *Ibid.*, 2–3.

⁶⁵ *Ibid.*, 8.

Decision Number 90/PUU-XXI/2023 is widely regarded as reflecting an inconsistency in the Constitutional Court's exercise of its role as a negative legislator, which at the same time may generate sustained institutional tension, particularly if the Court's authority to construct new normative formulations beyond the scope of judicial review is challenged by the legislative branch.⁶⁶ Moreover, the context surrounding the issuance of this decision has given rise to concerns about potential bias influencing the Court's legal reasoning, thereby affecting perceptions of judicial independence and impartiality, which are expected to be grounded in the principle of autonomy from external influence (Subandri, 2024).⁶⁷ This situation reinforces the view that, in this case, the Constitutional Court tended to exceed the limits of its judicial authority through an excessive form of judicial activism, as it substantively created a new norm that properly falls within the competence of the legislature, thus potentially undermining the principle of separation of powers (Siregar et al., 2025).⁶⁸

Accordingly, the analysis of Decision Number 90/PUU-XXI/2023 reveals three principal issues: (1) the expansion of the *ratio decidendi* that tends toward judicial activism, (2) the presence of dissenting opinions indicating internal challenges in the judicial deliberation process, and (3) potential inconsistency with earlier decisions that emphasized the principle of judicial restraint. These three aspects demonstrate that judicial review is not merely a legal mechanism, but also a site of contestation among legal norms, ethical considerations, and power

⁶⁶ D. Sulastri dan A. Sanmas, "Implikasi Putusan Mahkamah Konstitusi sebagai Positif Legislator terhadap Prinsip Check and Balance: Mahkamah Konstitusi sebagai *Positive Legislator*: Implikasi Putusan terhadap Prinsip *Checks and Balances* di Indonesia," *Litigasi* 26, no. 2 (2025). 287.

⁶⁷ Rio Subandri, "Tinjauan Yuridis Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 Tentang Persyaratan Batas Usia Pencalonan Presiden dan Wakil Presiden," *Jaksa: Jurnal Kajian Ilmu Hukum dan Politik* 2, no. 1 (2024): 151.

⁶⁸ B. Siregar, M. I. Adha, A. F. Kamil, & A. Fartini, "Peran Mahkamah Konstitusi dalam Menjaga Keseimbangan Kekuasaan: Analisis terhadap Putusan MK tentang Batas Usia Capres dan Cawapres," *Al Yasini: Jurnal Keislaman, Sosial, Hukum dan Pendidikan*, Vol. 10, No. 6 (2025), hlm. 414.

within the framework of constitutional democracy. Within the system of checks and balances, the dynamics surrounding Decision Number 90/PUU-XXI/2023 underscore the importance of the Constitutional Court consistently adhering to its constitutional role as *the guardian of the Constitution*.⁶⁹ Reinforcing this role is essential to prevent the misuse of authority and to ensure that the exercise of judicial review remains within the bounds of constitutional supremacy, without disrupting the balance of power and the legitimacy of representative democracy.

3. *Judicial Review and the Strengthening of Constitutional Legitimacy*

Besides operating as a legal procedure for examining statutory provisions, constitutional evaluation of legislation also contributes significantly to strengthening the constitutional legitimacy of the judicial institution entrusted with constitutional interpretation within Indonesia's constitutional governance structure. Within the framework of constitutional democracy, the legitimacy of state power does not derive solely from electoral processes, but also from the capacity of state institutions to exercise their authority in an accountable manner and in conformity with the Constitution. Through constitutional examination of legislation undertaken by the constitutional adjudicating institution, the state demonstrates its commitment to maintaining the Constitution as the highest legal norm guiding all governmental institutions, thereby fostering public confidence in the legal order and constitutional bodies and limiting the possibility of arbitrary exercise of power (Amin, 2025).⁷⁰ Conversely, should the Constitutional Court fail to undertake internal reform and to maintain integrity in exercising its power of statutory review, its constitutional legitimacy may erode and deviate from the mandate entrusted to it by the people (Sulaiman & Saifulloh, 2024).⁷¹

⁶⁹ Rohmah, *op. cit.*, 129.

⁷⁰ Fakhry Amin, "Peran Mahkamah Konstitusi dalam Menjaga Prinsip Konstitusionalisme di Indonesia: Studi Putusan *Judicial Review* Tahun 2019–2024," *Ranah Research: Journal of Multidisciplinary Research and Development* 7, no. 6 (2025): 4468.

⁷¹ Sulaiman dan Saifulloh, *op. cit.*, 160.

In line with this perspective, Farhan and Rosidin (2025), in their study entitled “*Supremasi Konstitusi di Tengah Legislasi Cepat: Urgensi Penguatan Wewenang Mahkamah Konstitusi*” (*Constitutional Supremacy Amid Accelerated Legislation: The Urgency of Strengthening the Authority of the Constitutional Court*), emphasize that strengthening the Constitutional Court depends not only on the constitutional design of its powers, but also on the quality of the implementation of judicial review, particularly with regard to the effectiveness of its decisions and the accessibility of constitutional justice for the public.⁷² Reinforcing the institution responsible for constitutional adjudication through a system of constitutional oversight of legislation grounded in transparency, consistency, and sound constitutional reasoning is widely regarded as an important condition for sustaining the authority of its decisions and minimizing the risk of politicized judicial power (Andrianto, 2026).⁷³ Accordingly, judicial review operates as a strategic instrument in preserving the balance between the enforcement of the highest authority of constitutional norms and the stability of democratic state governance.

According to Al Fasil *et al.* (2023), the legitimacy of constitutional adjudication is largely determined by the consistency of judicial decisions and the depth of legal reasoning in the review of statutes. Legal certainty can only be realized when constitutional interpretation is applied in a rational, stable, and predictable manner, thereby providing clear direction for both law-making and law enforcement.⁷⁴ The jurisdiction of the constitutional adjudicatory body to assess statutes must therefore be exercised with prudence by judges who possess statesmanship and the capacity to interpret the Constitution

⁷² Mochammad Farhan dan Utang Rosidin, “Supremasi Konstitusi di Tengah Legislasi Cepat: Urgensi Penguatan Wewenang Mahkamah Konstitusi,” *I’tiqadiah: Jurnal Hukum dan Ilmu-ilmu Kesyariahan* 2, no. 2 (2025): 109.

⁷³ Nurrasyid Istar Andrianto, “Urgensi Asas Keterbukaan dalam Pembentukan Peraturan Daerah: Menuju Legitimasi Konstitusional dan Partisipasi Bermakna,” *Indonesian Journal of Social Science and Education (IJOSSE)* 2, no. 1 (2026): 284.

⁷⁴ M. Rihdo, I. M. Sudur, A. R. Suardi, S. Pamungkas, dan F. P. Meilinda, “Kedudukan Surat Edaran Mahkamah Agung (SEMA) dalam Perspektif Akademisi: Kekuatan Hukum, Ketetapan, dan Konsistensi Pengaruh terhadap Putusan Hukum,” *USRAH: Jurnal Hukum Keluarga Islam* 4, no. 2 (2023): 237.

dynamically, accompanied by transparent decisions so that public trust in judicial review as a constitutional mandate is preserved (Mawalidin, 2021).⁷⁵ From this standpoint, the constitutional adjudicating institution is obligated to safeguard the limits of its jurisdiction while respecting the function of the legislative branch as the law-making body, in order to avoid the perception of judicial dominance within the democratic process.

C. Conclusion

Based on the foregoing analysis, this article affirms that judicial review constitutes a constitutional instrument with a crucial function in safeguarding the authority of the Constitution as the highest legal norm, while simultaneously strengthening the practice of constitutional democracy in Indonesia. The constitutional competence of the adjudicating institution to scrutinize statutes for their compatibility with the 1945 Constitution of the Republic of Indonesia acts as an instrument of power control, ensuring that the legislative process remains consistent with constitutional values while protecting the fundamental constitutional entitlements of citizens within a democratic legal framework.

The implementation of judicial review extends beyond a purely legal dimension and also produces constitutional-political effects that influence relations among state institutions within an arrangement of balanced governmental authority, especially in restraining the dominance of majority political forces in the legislative branch. Even though, normatively, the constitutional adjudicating institution is understood to function as a negative legislator, several forms of constitutional interpretation have generated normative consequences that provoke debate regarding the permissible scope of judicial power and the possible shift in the role of constitutional adjudication. For this reason, the implementation of judicial review must be carried out with prudence, consistency, and adherence to the doctrine of judicial self-

⁷⁵ Jun Mawalidin, "Konsistensi Konstitusi Indonesia dalam Pelaksanaan *Judicial Review* Undang-Undang," *Politica: Jurnal Hukum Tata Negara* 8, no. 1 (2021): 51.

limitation, in order to avoid blurring representative democratic values, legal certainty, and constitutional legitimacy. The research findings further reveal that enhancing the normative framework, judicial ethics, and the strength of constitutional reasoning within the rulings of the constitutional adjudicating institution is a crucial prerequisite to ensure equilibrium between constitutional supremacy and democratic legitimacy in the future governance of the state.

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