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The Status and Authority of the Indonesian Constitutional Court in Upholding Constitutional Supremacy

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Abstract: This article examines the status and authority of Indonesia's Constitutional Court in safeguarding constitutional supremacy after the constitutional reforms of 1999–2002. It addresses two questions: how the Court is positioned within Indonesia's post-reform constitutional architecture and how its enumerated powers operate as instruments of constitutional control. Using normative legal research, the study applies statutory, conceptual, and case-based approaches to the 1945 Constitution, legislation governing the Court, selected judgments, and comparative constitutional scholarship. The analysis finds that the Court is an autonomous constitutional organ exercising judicial power on an equal institutional plane with other principal state organs. Its authority to review statutes, resolve inter-institutional competence disputes, decide party dissolution and electoral-result disputes, and participate in presidential impeachment translates constitutional supremacy into enforceable law. Nevertheless, formal authority alone does not guarantee effective constitutionalism. The Court's legitimacy also depends on judicial independence, ethical integrity, reasoned consistency, procedural openness, and compliance with judgments by political institutions. Conditional decisions and remedial interpretations can protect constitutional rights and prevent normative vacuums, but they require disciplined justification to avoid displacing democratic lawmaking. Strengthening constitutional supremacy therefore requires a balanced framework that protects decisional independence while reinforcing accountability, judgment implementation, institutional dialogue, and a durable constitutional culture.

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

INTRODUCTION

Indonesia's constitutional transformation after the fall of the New Order was not merely an institutional rearrangement. It changed the location and grammar of supreme authority. Article 1(3) of the Constitution of the Republic of Indonesia of 1945 declares Indonesia to be a state based on law, while Article 1(2), as amended, locates sovereignty in the people and requires its exercise in accordance with the Constitution. Together, these provisions reject the proposition that public power is legitimate simply because it is politically effective or supported

by a temporary majority. Government must be authorized, limited, and evaluated by constitutional norms. In this sense, the rule of law is not exhausted by government through legislation; it requires law to constrain government, protect rights, organize accountability, and provide independent forums in which the legality of state action can be tested (Tamanaha, 2004; Venice Commission, 2025).

The four constitutional amendment rounds adopted between 1999 and 2002 reconstructed the Indonesian state around that premise. Before amendment, the People's Consultative Assembly (Majelis Permusyawaratan Rakyat, MPR) was conventionally described as the highest state institution and the full embodiment of popular sovereignty. The post-amendment Constitution replaced that vertically ordered model with a more differentiated structure in which constitutional powers are distributed among institutions whose authority derives from the Constitution itself. The MPR, the House of Representatives (Dewan Perwakilan Rakyat, DPR), the Regional Representative Council (Dewan Perwakilan Daerah, DPD), the President, the Supreme Court, the Judicial Commission, the Audit Board, and the Constitutional Court perform distinct constitutional functions. None may treat its own institutional will as the ultimate measure of legality. Constitutional supremacy accordingly replaced institutional supremacy as the organizing commitment of the reformed state (Asshiddiqie, 2014, 2018; Harijanti, 2006).

This transition generated an institutional question: if the Constitution binds every public authority, who can authoritatively determine whether ordinary legislation and institutional conduct remain within constitutional boundaries? A constitution without an enforcement mechanism can retain political and symbolic importance, but its legal supremacy is vulnerable whenever the institutions being limited are also the exclusive judges of those limits. The creation of the Constitutional Court (Mahkamah Konstitusi, MK) through the Third Amendment responded to this problem. Article 24(2) places the Court within the judicial power, while Article 24C specifies four adjudicative authorities and one constitutional obligation. Law No. 24 of 2003 concerning the Constitutional Court, subsequently amended, provides the institutional and procedural framework through which those constitutional mandates are exercised.

The Court's establishment in 2003 was therefore a decisive event in the consolidation of Indonesia's post-authoritarian constitutional order. For the first time, a specialized judicial institution possessed express authority to invalidate statutory norms that conflicted with the Constitution. It could also adjudicate disputes over constitutionally conferred powers, decide whether a political party could be dissolved, determine disputes concerning election results, and give the constitutionally required judgment in the presidential impeachment process. These competences locate the Court at points where law and politics intersect most intensely: the validity of legislation, the boundaries of public institutions, the fairness of electoral competition, the continued existence of political organizations, and the legal accountability of the highest executive officers.

The Court is often described as the guardian and authoritative interpreter of the Constitution. Those descriptions illuminate its central function, but they must be used carefully. The Court does not "own" the Constitution, nor does constitutional interpretation belong exclusively to judges in every social and political context. Legislatures, executives, ordinary courts, public institutions, civil society, and citizens also interpret the Constitution when they exercise rights or perform constitutional duties. The Court's distinctive position lies instead in its legally conclusive adjudicative authority within the competences assigned by Article 24C. Its decisions transform constitutional argument into binding legal consequences. This authority enables the Court to restrain political institutions, but it simultaneously places the Court under a demanding burden of justification. A body empowered to review democratic legislation must demonstrate that its judgments are grounded in constitutional text, structure, principle,

precedent, and publicly defensible legal reasoning rather than in unbounded judicial preference (Ginsburg, 2003; Stone Sweet, 2000).

Indonesia's experience demonstrates both the promise and fragility of this model. The Constitutional Court has issued decisions of major significance for political participation, elections, institutional authority, social and economic rights, religious freedom, and the design of public administration. Its jurisprudence has made the Constitution directly relevant to citizens who allege that legislation impairs their constitutional rights. At the same time, its history includes recurring debates about judicial ethics, appointment processes, political influence, decisional inconsistency, and the proper limits of judicial remedies. Constitutional review can fail through excessive timidity, but it can also lose legitimacy when a court appears to replace legislative judgment without a clear constitutional warrant. Independence must therefore be protected together with accountability, and judicial creativity must be disciplined by legal reasoning.

A further challenge concerns implementation. Article 24C(1) provides that Constitutional Court decisions at first and final instance are final. Finality eliminates an ordinary appellate route and creates immediate legal consequences. However, a judgment that requires statutory amendment, administrative adjustment, or institutional cooperation may not implement itself. Delayed or partial legislative follow-up can separate formal finality from practical effectiveness. Constitutional supremacy then becomes dependent on a wider constitutional culture: political officials must understand compliance not as institutional surrender but as performance of their own constitutional obligation. As the Venice Commission (2025) emphasizes in its updated Rule of Law Checklist, effective checks and balances and constitutional review require more than formal legal provisions; they depend on respect for decisions, institutional integrity, and conditions that prevent abuse of public power.

Against this background, this article asks two related questions. First, what is the status of the Constitutional Court within Indonesia's constitutional system as an institution responsible for upholding constitutional supremacy? Second, how do the powers assigned to it operate as legal mechanisms for safeguarding that supremacy? The article argues that the Court is neither hierarchically superior to all other state institutions nor merely auxiliary to political government. It is an autonomous constitutional organ situated within a horizontal system of differentiated powers. Its authority gives practical force to constitutional supremacy, but the sustainability of that role depends on a principled equilibrium: decisional independence without immunity from ethical accountability, effective remedies without judicial legislation unconstrained by constitutional reasons, and final judgments supported by reliable mechanisms of implementation.

The article contributes to the literature in three ways. First, it integrates institutional status and enumerated authority within a single account of constitutional supremacy. Second, it distinguishes legal finality from effective implementation, thereby showing why compliance by political institutions is part of, rather than external to, constitutional adjudication. Third, it offers a normative framework for strengthening the Court through independence, integrity, reason-giving, remedial proportionality, and inter-institutional constitutional dialogue. This framework avoids two reductive positions: that judicial review is inherently sufficient to secure democracy, or that judicial engagement with politically consequential issues is inherently illegitimate. Constitutional adjudication is instead a practice of legally structured power whose democratic value must be continually earned.

METHODS

This research uses a normative legal method. Normative legal research examines law as a system of authoritative norms, principles, institutional competences, interpretive doctrines, and judicial remedies. It is appropriate to the present inquiry because the principal questions concern the constitutional source, juridical character, scope, and limits of the Constitutional Court's authority rather than the statistical behavior or subjective attitudes of judges. The method does not assume that doctrine operates in a social vacuum. It recognizes that constitutional rules acquire practical meaning through institutions and political compliance, but it evaluates those practices against constitutional and rule-of-law standards (Marzuki, 2021; Soekanto & Mamudji, 2019).

Three complementary approaches are applied. The statutory approach examines the 1945 Constitution, particularly Articles 1, 7A, 7B, 24, and 24C; Law No. 24 of 2003 concerning the Constitutional Court as amended most recently by Law No. 7 of 2020; Law No. 48 of 2009 concerning Judicial Power; and relevant provisions governing elections, legislation, and institutional conduct. These materials establish the Court's constitutional position, composition, jurisdiction, procedures, and the legal effects of its decisions. Because a constitutional competence cannot validly be expanded or restricted solely by ordinary policy preference, the analysis distinguishes authority conferred directly by the Constitution from procedural elaboration supplied by statute.

The conceptual approach analyzes constitutional supremacy, the rule of law, separation of powers, checks and balances, judicial independence, constitutional review, and constitutional dialogue. Kelsen's account of centralized constitutional adjudication supplies the starting point for understanding the Court's norm-controlling function. Contemporary comparative scholarship is used to evaluate the democratic and institutional dimensions of judicial review, including political insurance, rights protection, dialogic remedies, and the tension between judicial independence and accountability (Ginsburg, 2003; Hirschl, 2004; Lin, 2019; Stone Sweet, 2000). Indonesian constitutional scholarship provides the doctrinal and historical context necessary to avoid mechanically transplanting foreign concepts (Asshiddiqie, 2018, 2019; Butt, 2015; Huda, 2020).

The case approach examines representative patterns in Constitutional Court adjudication rather than purporting to offer an exhaustive empirical coding of all decisions. Particular attention is given to judicial review, conditional constitutionality and conditional unconstitutionality, institutional competence, electoral adjudication, and decisions whose implementation requires legislative or administrative follow-up. Cases are read for their constitutional basis, form of reasoning, remedial structure, and implications for the distribution of authority. The study treats decisions as primary legal materials while using peer-reviewed scholarship to situate them within broader doctrinal debates.

Legal materials were collected through documentary and library research and classified as primary, secondary, or supporting materials. Primary materials consist of constitutional provisions, statutes, and Constitutional Court decisions. Secondary materials include books and peer-reviewed journal articles on Indonesian and comparative constitutional law. Institutional reports and international rule-of-law standards are used as supporting materials, particularly where they clarify workload, institutional practice, or accepted benchmarks of judicial independence and constitutional review. Preference is given to official legal texts, reputable academic publishers, and peer-reviewed journals.

The materials are analyzed qualitatively through descriptive, analytical, and prescriptive stages. The descriptive stage identifies the Court's legal status and enumerated competences. The analytical stage explains how those competences function within the post-reform separation of powers and identifies tensions between finality, implementation, independence, accountability, and remedial creativity. The prescriptive stage formulates principles for strengthening the Court while preserving the constitutional roles of representative institutions.

Deductive reasoning is used to move from general constitutional principles to the specific design of the Indonesian Court, while contextual reasoning tests whether abstract theories adequately explain Indonesia's institutional experience.

RESULTS AND DISCUSSION

Constitutional Supremacy and the Post-Reform Distribution of Power

The first result is that the Constitutional Court's status can only be understood through the post-reform relocation of supremacy. Under the amended Constitution, no state institution constitutes an unlimited repository of sovereignty. The people remain the source of sovereign legitimacy, but public power is exercised according to constitutional arrangements. This formulation is crucial. Popular sovereignty is not equated with the unchecked will of a legislative majority, an executive office, or the MPR. It is juridically organized through powers, procedures, rights, elections, and institutions established by the Constitution.

Constitutional supremacy has both a formal and substantive dimension. Formally, the Constitution occupies the highest position in the national legal order and supplies the validity of subordinate norms. Substantively, it protects commitments that cannot be displaced through ordinary political convenience, including rights, democratic procedures, judicial independence, and limits on office. Kelsen's hierarchical account explains why a constitutionally inconsistent statute suffers a defect of validity and why a specialized tribunal may be authorized to remove that defect (Kelsen, 1942). Yet the Indonesian Constitution is more than the apex of a technical hierarchy. It is also the settlement through which political power after authoritarian rule was redistributed and constrained.

This settlement rejects a simplistic interpretation of the separation of powers. Indonesia does not establish three hermetically sealed branches. Its constitutional organs possess intersecting functions, shared appointments, and reciprocal controls. The President participates in legislation with the DPR; the DPR performs legislative, budgetary, and oversight functions; the judiciary reviews legal norms through two distinct judicial institutions; and the impeachment process involves the DPR, the Constitutional Court, and the MPR. Checks and balances therefore describe a structured relationship among powers, not institutional isolation. Each institution must be capable of performing its constitutional function, while mechanisms exist to contest or restrain action that exceeds constitutional authority.

The Constitutional Court fits this horizontal architecture. Its power to invalidate legislation does not make it the highest state institution in the pre-amendment sense. A reviewing court is supreme within the legal question authoritatively committed to it, but it does not acquire the general policy-making competence of the legislature or the administrative competence of the executive. Institutional equality is compatible with differentiated finality. The DPR and President possess primary authority to enact statutes; the Court possesses final adjudicative authority to determine whether those statutes conform to the Constitution. The apparent counter-majoritarian character of review is therefore not an external interruption of democracy but a component of the constitutional form through which Indonesian democracy is organized.

This understanding also clarifies the relationship between constitutional supremacy and judicial supremacy. They are not identical. Constitutional supremacy means that every institution, including the Court, is bound by the Constitution. Judicial supremacy would imply that the Court's institutional preference is itself the ultimate norm. The latter proposition cannot be accepted without qualification. The Court's decisions are legally final, but their legitimacy derives from the Constitution and from reasons capable of being publicly evaluated. The Court must interpret; constitutional language cannot apply itself. Nevertheless, interpretation remains a legally disciplined practice, not a license to convert judicial preference into constitutional command.

For that reason, the Court is better characterized as a guardian operating under the Constitution than as an organ standing above it. The guardian metaphor captures the duty to prevent statutory and institutional departures from constitutional commitments. It should not conceal the reciprocal fact that the Court's composition, procedures, jurisdiction, and ethics are themselves matters of constitutional legality. Judicial independence protects the Court against retaliation and improper direction; it does not exempt judges from impartiality, disclosure duties, reasoned decision-making, or ethical standards. The most stable conception of constitutional supremacy is thus relational: political branches respect judicial decisions, and the Court respects the constitutional allocation of political responsibility.

The Court as an Independent Constitutional Organ

Article 24(2) identifies the Constitutional Court, together with the Supreme Court and the courts beneath it, as an institution exercising judicial power. This textual location has several consequences. First, the Court is a principal constitutional organ rather than an auxiliary agency created at the discretion of ordinary legislation. Its core existence and competences cannot be abolished through an ordinary statute. Second, it exercises judicial rather than legislative or executive power, even when its judgments have significant policy effects. Third, its institutional design must satisfy the independence inherent in judicial power.

Independence has external, internal, and decisional dimensions. External independence requires protection from control by the executive, legislature, political parties, economic interests, and other state institutions. Internal independence protects individual judges from improper pressure within the Court. Decisional independence requires that outcomes be based on legal reasons and the record rather than personal relationships or political bargains. These dimensions are mutually reinforcing. Appointment security alone cannot produce independence if ethical safeguards are weak, and ethical supervision can threaten independence if it becomes a mechanism through which political actors punish unpopular judgments.

The Indonesian appointment design distributes the nomination of nine constitutional justices equally among the President, the DPR, and the Supreme Court. In theory, this plural arrangement prevents a single institution from monopolizing appointments and reflects the Court's position within a system of checks and balances. In practice, distributed appointment does not automatically ensure transparent or merit-based selection. Each nominating institution must apply procedures that are open, reasoned, and oriented toward competence, integrity, independence, and constitutional experience. Without common minimum standards, plural nomination can become plural politicization. The constitutional objective should therefore be diversity of institutional input without ownership of judges by the institutions that nominated them.

Judicial accountability must be designed consistently with this objective. Delaney (2025) correctly frames independence and accountability as a productive tension rather than a choice in which one must eliminate the other. Independence enables impartial adjudication; accountability supplies the ethical and institutional conditions that make the exercise of independence credible. Appropriate accountability includes transparent appointment criteria, enforceable recusal rules, asset and conflict disclosures, reasoned judgments, publication of dissenting opinions, fair disciplinary procedures, and institutional reporting. Inappropriate accountability subjects the content of judicial decisions to political retaliation or permits removal because an institution dislikes a constitutional outcome.

Indonesia's experience demonstrates that public confidence can be damaged by ethical controversy even where the Court's doctrinal authority remains formally intact. Because constitutional judges decide disputes that affect the political system itself, perceived conflicts of interest have exceptional institutional costs. Legality and appearance converge: a judgment may be technically final while its social authority is weakened if the decision-making process appears compromised. The answer is not to subordinate the Court to political supervision, but

to develop credible, independent, and procedurally fair ethical enforcement that protects both integrity and decisional autonomy.

The Court's equal constitutional status also affects inter-institutional relations. Other state institutions have no authority to disregard a decision simply because they disagree with its interpretation. Conversely, the Court should not describe disagreement, criticism, or a constitutionally valid legislative response as defiance merely because it produces a different prospective policy. A mature constitutional order distinguishes noncompliance from dialogue. Re-enacting substantially identical norms that the Court has invalidated without addressing the constitutional defect may constitute evasion. Enacting a revised framework that responds to the Court's reasoning while choosing among constitutionally permissible alternatives may represent legitimate legislative responsibility.

Judicial Review as the Core Instrument of Constitutional Supremacy

Among the Court's competences, review of statutes against the Constitution most directly operationalizes constitutional supremacy. Article 24C(1) authorizes the Court to adjudicate at first and final instance, with final decisions, the review of laws against the Constitution. The competence places legislation enacted by the DPR and President within a legal framework superior to ordinary political agreement. Legislative procedure and electoral mandate remain essential sources of democratic legitimacy, but neither renders a statute immune from constitutional scrutiny.

Judicial review performs at least four functions. The first is normative control: it preserves consistency between statutory law and constitutional norms. The second is rights protection: individuals and groups whose constitutional rights are impaired by legislation can seek a binding remedy. The third is structural protection: review maintains institutional boundaries and preserves constitutional procedures. The fourth is justificatory: litigation requires the state to explain publicly why a restriction, classification, or institutional arrangement is constitutionally permissible.

The rights-protective function is particularly important in a plural democracy. Majoritarian procedures can produce legitimate law, but majorities may overlook diffuse interests, burden minorities, or entrench political incumbents. Constitutional review provides a forum in which the legal acceptability of those burdens is assessed using standards that are not reducible to electoral strength. This does not make judges inherently more virtuous than elected officials. It makes them differently situated: courts decide concrete legal claims through procedures requiring reasons, evidence, and an articulated connection to higher law.

Access rules determine whether this promise is real. Standing doctrine should prevent abstract political disagreement from overwhelming adjudication, yet it should not be so restrictive that constitutional injury becomes practically irremediable. The Court's established requirements concerning constitutional rights or authorities, alleged impairment, causal connection, and the possibility that a favorable judgment will prevent or remedy harm seek to mediate this concern. In applying them, the Court should remain attentive to collective, diffuse, and future-oriented injuries that cannot always be expressed as conventional private loss.

The review of legislation also requires methodological consistency. The Constitution contains rules, principles, institutional designs, and open-textured commitments. No single interpretive method will resolve every dispute, but unpredictability is not inevitable. Judgments should identify the relevant constitutional text, explain structural implications, address precedent, evaluate legislative purpose and effects, and show why the chosen remedy follows from the identified violation. Where the Court departs from precedent, it should acknowledge and justify the departure. Consistency does not mean immobility; it means that legal development occurs through visible reasons rather than unexplained variation.

The magnitude of judicial-review practice underscores its centrality. By the end of 2025, the Court reported 2,160 judicial-review decisions over its institutional life (Constitutional

Court of the Republic of Indonesia, 2026). The significance of this number lies not only in caseload but in the continuing constitutionalization of public disputes. Questions once left primarily to political negotiation are increasingly framed as claims about equality, due process, representation, institutional competence, and rights. This development can strengthen constitutionalism, provided that adjudication remains accessible, timely, and reasoned.

Conditional Decisions and the Boundary Between Negative and Positive Legislation

Kelsen's constitutional court is often described as a negative legislator because it can annul invalid legislation but does not ordinarily enact a replacement norm. Indonesian practice, like that of many constitutional courts, has moved beyond a purely binary choice between validity and invalidity. The Court has used conditionally constitutional and conditionally unconstitutional decisions, interpretive directions, prospective effects, and other remedial techniques to prevent constitutional harm while avoiding legal vacuums. These remedies recognize that immediate annulment can sometimes damage rights, disrupt administration, or produce consequences more constitutionally problematic than temporary preservation.

Conditional decisions can be defensible when a statutory provision is capable of both constitutional and unconstitutional applications. Rather than erasing the text, the Court specifies the interpretation under which it remains valid or the interpretation that must be excluded. Such a remedy may preserve legislative work while aligning application with constitutional requirements. It also resembles a form of dialogue: the Court identifies the constitutional minimum, while the legislature retains space to design a durable regulatory response. Lin (2019) observes that Indonesian practice can display quasi-weak-form characteristics despite a formally strong review model, particularly when the Court sustains legislation while urging constitutional correction.

Nevertheless, conditional interpretation carries risks. An overly detailed decision may effectively draft a new regulatory scheme without the deliberation, evidence-gathering, budgetary assessment, and political accountability associated with legislation. A vague condition may generate uncertainty because administrators and lower courts cannot determine precisely what the ruling requires. A remedy addressed only in the reasoning but not clearly reflected in the operative order may also complicate implementation. The legitimacy of a conditional decision therefore depends on remedial discipline.

At least five principles should guide that discipline. First, the Court must identify the constitutional violation with precision. Second, the remedy should be necessary to cure that violation rather than to implement the Court's preferred policy. Third, the Court should preserve constitutionally permissible legislative choices. Fourth, the temporal and legal effects of the decision should be explicit. Fifth, where legislative follow-up is required, the judgment should state the constitutional parameters and a reasonable implementation framework without attempting to administer the resulting policy.

Remedial restraint should not be confused with passivity. If the Court identifies a rights violation but adopts a remedy incapable of preventing continuing harm, constitutional supremacy becomes rhetorical. Equally, categorical invalidation may be irresponsible when it creates a dangerous regulatory void. The appropriate judicial posture is principled effectiveness: the remedy must meaningfully vindicate the Constitution while minimizing unnecessary intrusion into legislative design. Comparative constitutional practice supports techniques such as suspended declarations, severability, reading down, and mandatory reconsideration, but their use must be anchored in Indonesian constitutional and statutory law rather than adopted as free-standing judicial inventions.

Disputes Concerning the Authority of State Institutions

The power to decide disputes concerning the authority of state institutions whose competences are granted by the Constitution is a direct instrument of horizontal constitutional ordering. Such disputes arise because separated and shared powers are rarely self-defining. Institutions may disagree about whether a competence exists, which organ possesses it, or how overlapping responsibilities should be coordinated. Without an impartial forum, those disagreements risk resolution through political dominance rather than constitutional law.

The Court's jurisdiction in this field protects both institutional autonomy and systemic coherence. It prevents one organ from appropriating a function conferred on another, but it also discourages institutions from using competence disputes to avoid responsibility. The requirement that the disputed authority derive from the Constitution preserves the exceptional constitutional character of the jurisdiction. Ordinary administrative or statutory disagreements should generally be resolved through other legal mechanisms unless they implicate a constitutionally conferred power.

The low numerical volume of these cases compared with judicial review does not diminish their structural importance. The Court reported thirty decisions in disputes over state-institution authority during its first twenty-two years (Constitutional Court of the Republic of Indonesia, 2026). Each such case can clarify the architecture of government and prevent escalation between major state organs. Eddyono (2010) notes that the jurisdiction demands careful identification of both the applicant institution and the constitutional source of the contested competence.

In resolving these disputes, the Court should prefer structural reasoning attentive to the Constitution as a whole. Text remains primary, but institutional powers often arise from the relationship among several provisions. The Court must consider function, accountability, democratic legitimacy, and the danger of rendering another institution's express competence ineffective. It should also distinguish constitutional authority from political interest: an institution does not obtain standing merely because a decision affects its preferences or workload.

The jurisdiction embodies checks and balances in its most literal form. It makes the limits among institutions judicially cognizable and replaces unilateral self-judgment with constitutional adjudication. At the same time, the Court should preserve space for cooperative coordination. Not every institutional tension is a constitutional conflict. Political negotiation, inter-agency arrangements, and legislative clarification remain legitimate when they operate within constitutional boundaries.

Political Parties, Elections, and Constitutional Democracy

The Court's authority over political-party dissolution and disputes concerning general election results places it at the boundary between protecting democracy and deciding contests among democratic actors. These powers must be exercised with particular attention to political pluralism, due process, equality, and public confidence.

Political parties are indispensable intermediaries between citizens and state power. They organize participation, nominate candidates, aggregate interests, and structure legislative government. Executive power to dissolve opposition parties would create an obvious instrument of authoritarian control. By assigning dissolution to the Constitutional Court, the Constitution and implementing law place a severe restriction on political freedom within an adjudicative process. Dissolution should remain exceptional, based on clear legal grounds, compelling evidence, procedural equality, and proportionality. The Court's role is to protect the constitutional democratic order without converting ideological disagreement into a basis for exclusion.

Election-result disputes present a different but equally significant problem. Elections translate popular sovereignty into public office, but their legitimacy depends on legal rules and

credible remedies. The Court provides an authoritative forum for claims that official results do not lawfully reflect the electoral process. Its judgments can prevent instability by replacing extra-legal contestation with adjudication. Yet the proximity of these cases to immediate struggles for power places exceptional pressure on independence and reasoning.

Electoral adjudication should be timely because delayed resolution can prevent government formation and prolong uncertainty. Speed, however, must not eliminate fairness. Parties require a meaningful opportunity to present evidence and answer allegations. The Court must distinguish outcome-relevant violations from irregularities that, though unlawful, do not justify altering results. Its reasoning should explain evidentiary standards, causal conclusions, and remedies with unusual clarity because public acceptance depends on more than the formal announcement of a winner.

The Court's development of concepts addressing structured, systematic, and massive electoral violations illustrates the interaction between legal text and the practical conditions of democratic competition. A narrow focus on arithmetic could fail to remedy coordinated abuses that distort the vote before tabulation. Conversely, open-ended standards can invite the Court to adjudicate general dissatisfaction with election administration. The doctrinal task is to connect the scale, organization, and effect of violations to constitutionally protected electoral principles and to an appropriate remedy (Fahmi, 2015).

Comparative research on constitutional courts emphasizes their capacity to stabilize democracy but also warns that courts operate within political environments (Ginsburg, 2003; Hirschl, 2004). Indonesia's Court cannot secure electoral integrity alone. Election management bodies, supervisory institutions, law-enforcement agencies, political parties, media, and citizens all contribute to lawful competition. The Court's distinctive function is remedial and authoritative: it resolves disputes placed within its jurisdiction and articulates constitutional standards that guide future conduct.

The Constitutional Role in Presidential Impeachment

Articles 7A and 7B of the Constitution establish a multi-stage process for the removal of the President or Vice-President. The DPR may advance an opinion alleging constitutionally specified wrongdoing or loss of eligibility; the Constitutional Court must examine, adjudicate, and decide that opinion; and the MPR exercises the final political-constitutional decision within the prescribed process. This arrangement responds to the danger of both executive impunity and politically opportunistic removal.

The Court's role juridicizes the allegations. Removal cannot rest solely on a parliamentary majority's loss of political confidence, because Indonesia's presidential system grants the executive a fixed democratic mandate subject to constitutional grounds for removal. The Court must determine whether the alleged violation is legally established. Its participation protects governmental stability while ensuring that high office does not place the President beyond law.

The impeachment competence also demonstrates that the Court is part of a sequence rather than the sole controller of the process. The DPR initiates through a constitutionally regulated opinion, the Court adjudicates the legal allegations, and the MPR decides the institutional consequence. This division combines democratic accountability with legal verification. It is a paradigmatic check-and-balance mechanism: no single institution can remove the President unilaterally.

Should such a case arise, procedural legitimacy would be paramount. The Court would need to define evidentiary standards, guarantee the right to answer allegations, separate legal proof from political rhetoric, and issue reasons capable of sustaining public confidence under exceptional polarization. The absence of routine impeachment litigation does not reduce the provision's importance. Its existence shapes incentives by signaling that executive accountability must proceed through constitutional channels.

Final and Binding Decisions: From Legal Effect to Institutional Compliance

The finality of Constitutional Court decisions serves legal certainty. Because there is no appeal, parties and public institutions receive an authoritative resolution of the constitutional question. Finality also prevents ordinary institutions from neutralizing constitutional review through repetitive litigation. Nevertheless, the phrase "final and binding" should not obscure the difference between immediate legal effect and complete practical implementation.

Some decisions are self-executing. When a statutory phrase is declared to have no binding legal force, courts and administrators can cease applying it. Other decisions are implementation-dependent. A judgment may require the DPR and President to amend legislation, an agency to issue new rules, an election body to modify procedures, or budgetary and administrative adjustments to realize a protected right. In these circumstances, the legal judgment is final, but compliance unfolds over time.

Delayed implementation creates several harms. It leaves rights-holders uncertain, allows unconstitutional conditions to persist, and weakens the authority of future judgments. It can also tempt the Court to write increasingly detailed remedies because political institutions have failed to respond to earlier guidance. Noncompliance thus changes the institutional equilibrium: legislative inaction can generate judicial expansion, while judicial over-specification can provoke political resistance.

An effective compliance framework should preserve institutional roles. The Court should formulate operative orders precisely and identify whether a decision has immediate, prospective, suspended, or conditional effect. The legislature and executive should maintain a transparent mechanism for cataloguing decisions requiring follow-up, assigning institutional responsibility, and reporting the status of implementation. Parliamentary legislative planning should expressly identify Constitutional Court judgments that require statutory response. Where several constitutionally permissible responses exist, political institutions should retain policy choice while explaining how the selected measure cures the defect identified by the Court.

Compliance is not equivalent to uncritical agreement. Constitutional democracy permits robust criticism of judicial reasoning and scholarly argument for doctrinal reconsideration. What it does not permit is treating a final decision as legally optional. Political disagreement should be expressed through constitutionally available means: compliant legislative revision, future legal argument, or constitutional amendment under the prescribed procedure—not administrative neglect or reproduction of the invalidated defect.

The Court also bears responsibility for implementability. Orders should be intelligible to affected institutions, coherent with the reasons, and attentive to transitional consequences. If compliance requires technical or fiscal action, the Court can identify constitutional objectives while allowing appropriate institutional planning. This is not weakness; it is recognition that constitutional government is a coordinated practice. Judicial authority is strongest when its remedies are both principled and capable of lawful execution.

Independence, Integrity, and Public Legitimacy

Formal constitutional entrenchment does not insulate a court from legitimacy crises. Constitutional adjudication relies on neither control of public finance nor direct coercive force. Its practical authority depends substantially on public and institutional acceptance that judgments are the product of lawful, impartial, and reasoned decision-making. That acceptance can survive disagreement, but it is difficult to sustain amid credible perceptions of conflicts of interest or political capture.

Independence should consequently be understood as an institutional ecology. Appointment, tenure, remuneration, case allocation, recusal, discipline, security, transparency, and professional culture all affect a judge's capacity to decide impartially. Reform directed at only one element may displace rather than eliminate vulnerability. For example, secure tenure

is valuable, but an opaque appointment process can place insufficiently independent candidates on the bench. Strong disciplinary power may address misconduct, but if controlled by political actors it can become a threat to decisional freedom.

The appointment process requires particular attention because constitutional judges exercise concentrated and final authority. Each nominating institution should publicly announce criteria, provide meaningful time for scrutiny, disclose relevant professional histories and conflicts, and explain its selection. Candidates should be assessed on legal competence, constitutional experience, integrity, independence, and capacity for reasoned judgment. Public participation can improve information and legitimacy, although it should not turn selection into a popularity contest.

Ethical oversight should be independent, clear, and fair. Codes must address conflicts of interest, familial or professional relationships, prohibited communications, gifts, political activity, and recusal. Procedures should protect complainants, judges, and the Court from arbitrary accusation. Findings and sanctions should be reasoned and proportionate. The object is neither judicial impunity nor political punishment, but trustworthy constitutional adjudication.

Reasoned judgments constitute another form of accountability. Publication allows litigants, lower courts, academics, political institutions, and citizens to evaluate how the Court moved from constitutional materials to outcome. Separate and dissenting opinions can expose disagreement without weakening the institution; indeed, they may enhance transparency and contribute to doctrinal development. Butt (2018) demonstrates the importance of dissent in the Court's jurisprudence. The Court should facilitate research access through reliable databases, consistent citation, clear identification of holdings, and publication of procedural materials.

Constitutional Rights and the Development of Indonesian Constitutionalism

The Court's role as protector of constitutional rights follows from its review jurisdiction. Rights guarantees are legally incomplete if individuals lack a forum to challenge statutory infringement. Through judicial review, constitutional provisions concerning equality, due process, religion, expression, political participation, education, social welfare, and other protected interests become standards of public justification.

Rights adjudication requires attention to text, purpose, limitation, and remedy. Not every differential treatment is unconstitutional, and not every asserted interest qualifies as a constitutional right. The Court must identify the protected interest, the nature and intensity of interference, the state's constitutional objective, and whether the means adopted are rational, necessary, and proportionate where the relevant doctrine requires it. Transparent analytical structure makes rights decisions more predictable and enables political institutions to legislate within constitutional bounds.

The Indonesian Constitution contains civil and political rights alongside social and economic commitments. This integrated structure cautions against treating constitutionalism as concerned only with restraints on government. It also includes affirmative public responsibilities. Courts must nevertheless recognize institutional competence when adjudicating resource-dependent rights. They can identify constitutional minima, prohibit discrimination, require rational policy, and remedy manifest neglect without necessarily choosing detailed budgets or administrative programs.

Constitutional rights also have a democratic function. Freedom of expression, association, equal political opportunity, and fair elections sustain the processes through which citizens govern themselves. Judicial protection of these rights does not stand outside democracy; it protects the conditions of democratic agency. At the same time, rights reasoning should engage seriously with legislative purposes and factual records. Judicial review is most persuasive when it demonstrates why constitutional protection requires intervention in the particular case.

The Court's jurisprudence contributes to an evolving Indonesian constitutional identity. Constitutional meaning is not frozen at the moment of amendment, but neither is it infinitely malleable. Interpretation should connect contemporary problems to the Constitution's text, history, structure, foundational commitments, and accumulated precedent. Progressive interpretation is legitimate when it deepens constitutional protection through disciplined reasons. It becomes problematic when "progress" functions as a label replacing legal analysis.

A Normative Framework for Strengthening the Court

The foregoing analysis supports a framework built on five connected principles. The first is protected independence. The Court must be free from political direction, retaliation, and improper influence. Appointment and tenure arrangements should secure impartial adjudication rather than institutional loyalty to nominators.

The second is integrity-based accountability. Ethical rules, recusals, disclosure, and fair disciplinary mechanisms should make independence trustworthy. Accountability should target misconduct and institutional quality, not punish substantive disagreement with judgments.

The third is reasoned consistency. The Court should articulate interpretive methods, treat precedent seriously, explain departures, identify holdings clearly, and connect remedies to constitutional violations. This principle is essential where decisions are final and politically consequential.

The fourth is remedial proportionality. The Court must provide effective relief while preserving legitimate legislative and administrative choice. Conditional rulings, suspended effects, and interpretive remedies should be used according to transparent criteria. Their operative consequences must be unambiguous.

The fifth is implementation through constitutional dialogue. Political institutions must comply with final judgments and establish systematic follow-up procedures. Dialogue does not allow defiance; it describes the allocation of tasks after judgment. The Court establishes constitutional requirements, while the legislature and executive select and implement policies within the remaining constitutional space.

These principles reflect the updated Venice Commission (2025) emphasis on checks and balances and constitutional review as express rule-of-law benchmarks. Their application in Indonesia must remain grounded in the 1945 Constitution and national institutional experience. International standards are useful not because they override domestic constitutional authority, but because they clarify recurring conditions under which constitutional adjudication protects rather than destabilizes democratic government.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

The Constitutional Court is an autonomous constitutional organ exercising judicial power under Articles 24 and 24C of the 1945 Constitution. Its creation institutionalized the post-reform transition from the supremacy of a state institution to the supremacy of the Constitution. Within Indonesia's horizontal system of differentiated powers, the Court is neither subordinate to the political branches nor generally superior to them. It possesses final authority within constitutionally enumerated fields so that legislation, institutional conduct, electoral outcomes, party dissolution, and presidential accountability remain subject to constitutional law.

Judicial review is the Court's most direct instrument for safeguarding constitutional supremacy. It controls the validity of statutes, protects constitutional rights, preserves structural boundaries, and requires public justification for legal restrictions. The Court's other competences reinforce the same constitutional purpose: competence disputes maintain the allocation of authority; party-dissolution jurisdiction protects political pluralism through due process; electoral adjudication secures lawful democratic competition; and the impeachment role combines presidential stability with legal accountability.

The effectiveness of these powers cannot be assessed from formal jurisdiction alone. Constitutional supremacy depends on the Court's independence, the integrity of its justices, the coherence and transparency of its reasoning, the proportionality of its remedies, and implementation by other state institutions. Conditional and interpretive decisions may be necessary to prevent legal vacuums and protect rights, but they must remain tied to constitutional necessity and preserve policy choices not foreclosed by the Constitution. Finality creates legal authority; compliance and constitutional culture convert that authority into lived constitutionalism.

Accordingly, strengthening the Constitutional Court does not mean maximizing judicial power without limit. It means securing the institutional conditions under which constitutional adjudication can restrain abuse while remaining restrained by law. A credible Court, a responsive legislature, a constitutionally disciplined executive, professional legal institutions, and an informed public are mutually dependent elements of Indonesia's democratic rule-of-law state.

Recommendations

First, the appointment of constitutional justices should be governed by common minimum standards across the President, DPR, and Supreme Court. Selection must be public, merit-based, and supported by reasoned explanations addressing competence, constitutional experience, integrity, independence, and conflicts of interest. Plural nomination should create institutional balance, not political ownership.

Second, judicial ethics should be strengthened through an independent and procedurally fair framework. Clear rules on recusal, prohibited contacts, conflicts of interest, disclosure, and sanctions are necessary to protect both public confidence and decisional independence. Ethical review must never become an appellate mechanism through which political institutions retaliate against constitutional judgments.

Third, the Court should adopt and publish clearer remedial principles. Judgments using conditional constitutionality, conditional unconstitutionality, delayed effect, or interpretive directions should specify the constitutional defect, legal consequences, temporal operation, responsible implementing institutions, and scope of remaining legislative discretion. Greater remedial clarity would improve legal certainty and reduce institutional friction.

Fourth, the DPR and Government should establish a permanent, transparent mechanism for monitoring and implementing Constitutional Court decisions. A publicly accessible register should identify judgments requiring legislative or administrative action, the responsible body, planned response, progress, and reasons for delay. National legislative planning should prioritize unresolved constitutional obligations.

Fifth, doctrinal consistency and accessibility should be improved through reliable precedent practices, express treatment of earlier decisions, standardized identification of holdings, and comprehensive publication of judgments and procedural information. Judicial education and research capacity should support comparative and international materials while keeping analysis anchored in Indonesian constitutional law.

Finally, constitutional culture must be cultivated beyond the Court. State officials, political parties, universities, professional organizations, civil society, media, and citizens should treat the Constitution as a practical framework of responsibility rather than a ceremonial text. The sustainability of constitutional supremacy ultimately rests on a shared discipline: power must accept limits, institutions must perform their duties, and disagreement must remain within constitutional forms.

Author Contributions

All authors made significant contributions to this study. These contributions included research conceptualization, development of the theoretical framework, data collection, data

analysis, interpretation of results, manuscript preparation, scholarly revision, and final approval of the manuscript for publication. All authors confirm that they have read and approved the final version of the article.

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