

# The Role of The Constitutional Court in Maintaining the Balance of Power in Indonesia

Dony Setyawan<sup>1\*</sup>, Atma Suganda<sup>2</sup>, Supaphorn Akkapin<sup>3</sup>

Doctor of Law Studies Program Jayabaya University, Indonesia<sup>1,2</sup>, Rajamangala University of Technology Krungthep, Thailand<sup>3</sup>

\*Corresponding author: [donybpn@gmail.com](mailto:donybpn@gmail.com)

## Abstract

The role of the Constitutional Court in maintaining the balance of power in Indonesia is crucial in ensuring the achievement of a democratic and fair system of government. As an institution mandated to safeguard the constitution, the Constitutional Court has the main function of conducting judicial reviews of laws that conflict with the 1945 Constitution, as well as overseeing general and regional elections. In addition, the Constitutional Court also acts as a protector of citizens' constitutional rights, ensuring that economic, social and cultural rights are respected and protected. Through its authority, the Constitutional Court plays an important role in maintaining the principle of checks and balances in Indonesia, preventing abuse of power, and strengthening the system of separation of powers between the executive, legislative and judicial branches. In this context, the Constitutional Court functions as an independent and objective constitutional watchdog institution, which is an important element in maintaining the stability and sustainability of democracy in Indonesia.

**Keywords:** constitutional court, checks and balances, judicial review, constitutional rights.

## Introduction

Since the amendment of the 1945 Constitution of the Republic of Indonesia (UUD 1945), the Indonesian constitutional system has undergone profound changes, especially in the division of powers between state institutions. This change aims to strengthen the principle of *checks and balances*, where each state institution has a function that oversees and controls each other, thus creating a more effective balance of power. One institution that plays an important role in maintaining this balance is the Constitutional Court (MK). As an institution established based on a constitutional mandate, the Constitutional Court not only functions as the guardian of the constitution, but also as a watchdog that ensures that state power is exercised in accordance with the principles contained in the 1945 Constitution (Hadji, et al, 2024; Hasibuan, et al 2024; Nurambiya & Tiopan, 2023).

The Constitutional Court plays an important role in ensuring that every government policy and legislation product does not conflict with the constitution. The Constitutional Court has the authority to test the constitutionality of laws (*judicial review*), decide disputes over authority between state institutions, and resolve disputes related to election results (Safitri &



Wibowo, 2023; Riqiey, 2023). In exercising its authority, the Constitutional Court acts in accordance with Law No. 7/2020 on the Third Amendment to Law No. 24/2003 on the Constitutional Court, which regulates in detail the duties and authority of the Constitutional Court in maintaining the rule of law and ensuring that state policies remain in line with applicable constitutional principles. Under this law, the Constitutional Court is mandated to examine laws against the 1945 Constitution, resolve disputes over authority between state institutions, decide on the dissolution of political parties, and resolve disputes over election results.

As an independent judicial institution, the Constitutional Court plays an important role in ensuring that the executive, legislature and judiciary operate within the boundaries set by the constitution. This function also includes oversight of possible abuse of authority by certain state institutions. In this context, the Constitutional Court acts as a watchdog to ensure that no branch of government acquires excessive power or acts outside the established constitutional limits. This is crucial to keep the Indonesian system of government balanced and functioning in accordance with the principles of democracy and the rule of law.

However, despite its vital role, the Constitutional Court also faces various challenges in exercising its authority, both in the decision-making process and in the implementation of the decision (Hasibuan, et al 2024). Tensions often arise between the Court's decisions and other state institutions, especially in the context of authority or policies that are considered controversial. Therefore, this article seeks to answer the main question: "What is the role of the Constitutional Court in ensuring the separation and balance of powers in Indonesia?" This question will direct the study to how the Constitutional Court contributes to maintaining the balance of power between state institutions and ensuring that the Indonesian system of government continues to run in accordance with the principles of democracy, law and constitutionality.

This study aims to further discuss the authority of the Constitutional Court, its supervisory function, and the challenges faced by the Constitutional Court in carrying out its duties. Through a deeper understanding of the role of the Constitutional Court, it is hoped that clearer insights can be found regarding its contribution to maintaining the balance of power and strengthening the principle of the rule of law in Indonesia.

This research aims to examine two important aspects related to the role of the Constitutional Court (MK) in the Indonesian constitutional system. First, this study will analyse the authority of the Constitutional Court, particularly in carrying out the function of judicial review, to ensure that any legislative policy produced by the DPR does not conflict with the 1945 Constitution of the Republic of Indonesia (UUD 1945). Secondly, this study aims to identify the role of the Constitutional Court in maintaining the balance of power between state institutions that oversee each other, namely the executive, legislative and judiciary. The Constitutional Court has a central role in maintaining that power between these three institutions does not shift or become centralised in one particular institution, which could threaten the principles of democracy and the rule of law. By analysing these two aspects, this research hopes to provide a clearer picture of how the Constitutional Court plays a role in upholding the supremacy of the constitution and maintaining the integrity of the Indonesian system of government.



The main question posed in this research is, "What is the role of the Constitutional Court in ensuring the separation and balance of powers in Indonesia?" This question explores how the Constitutional Court, through its authority, functions to maintain the balance between the branches of power in Indonesia. This research will focus on the role of the Constitutional Court in ensuring that power is not centralised or abused by one institution. In addition, this research will also explore how the Constitutional Court facilitates the separation of authority between the executive, legislative and judiciary in a constitutional context. The hypothesis proposed is that the Constitutional Court has a vital role in maintaining the principle of *checks and balances* in the Indonesian constitutional system, as well as acting as an independent watchdog to prevent abuse of power by any state institution.

This research is expected to make a significant contribution in both theory and practice. Theoretically, this research will enrich the understanding of the role of the Constitutional Court in the Indonesian constitutional system, especially regarding the authority of the Constitutional Court in conducting constitutional testing and maintaining the balance of power between state institutions. This contribution is important to add to the literature on the role of the Constitutional Court in a democratic legal state, especially within the framework of the Indonesian government system. Practically, the findings of this research are expected to provide insights for policy makers, Constitutional Court judges, and legal practitioners in understanding more about how the authority of the Constitutional Court can be utilised to maintain a healthy constitutional system that is free from abuse of power. This research is also expected to provide input for improving the working mechanism of the Constitutional Court in carrying out its function as a constitutional watchdog.

The conceptual framework of this research focuses on two main roles of the Constitutional Court in the Indonesian constitutional system, namely its authority to conduct *judicial review* and its role in maintaining the balance of power between state institutions. The Constitutional Court has a very important authority in testing whether laws passed by the DPR are contrary to the 1945 Constitution. As such, the Constitutional Court serves to safeguard that no law harms the constitutional rights of citizens or threatens the fundamental principles of the state. In addition, the Constitutional Court also functions as an institution that resolves disputes over authority between state institutions, ensuring that no state institution has greater power or acts outside constitutional limits. In this context, the Constitutional Court acts as an independent watchdog, ensuring that the principle of *checks and balances* between the executive, legislature and judiciary can function properly. This conceptual framework will direct the analysis of how the Constitutional Court performs its function in maintaining the balance of power and ensuring that no institution dominates or abuses power in the Indonesian system of government.

## Literature Review

The Constitutional Court (MK) plays a crucial role in maintaining the balance of power in Indonesia, particularly in ensuring that legislative and executive actions are in line with the



1945 Constitution. To understand the role of the Constitutional Court, this study utilises three main theories: separation of powers, constitutional law, and checks and balances. These three theories complement each other in explaining the Constitutional Court's function as a constitutional watchdog and guardian of the balance between state institutions.

### Separation of Powers Theory

The separation of powers theory, developed by John Locke and Montesquieu (Wutsqah & Erham, 2024; Chofa & Locke, 2024; Fodhi, et al, 2024; Darussalam & Indra, 2021), divides state power into three branches: legislative, executive and judicial. The main purpose of this division is to prevent the accumulation of power that can be abused. The Constitutional Court acts as a watchdog to ensure that the actions of the legislature and executive are in accordance with the constitution, guarding against domination by one branch of power.

### Constitutional Law Theory

Constitutional law theory focuses on the role of state institutions in implementing the constitution (Reyhan, et al, 2024; Nada, 2022). In this case, the Constitutional Court functions to oversee that legal products and government policies do not violate the constitutional rights of citizens. The Constitutional Court has the authority to keep every policy or law issued in accordance with constitutional principles, functioning to protect human rights and ensure justice.

### The Theory of Balance of Power (*Checks and Balances*)

The theory of *checks and balances* emphasises the importance of oversight between state institutions to prevent abuse of power (Putra, et al, 2024; Jayadi, et al, 2022; Sabrina & Khalid, 2023; Meilinda, 2024). The Constitutional Court acts as an independent watchdog institution that can limit legislative and executive actions that exceed their authority. The role of the Constitutional Court as a watchdog is crucial in maintaining stability and fairness in government, preventing the domination of one institution over another.

Using the theories of separation of powers, constitutional law, and checks and balances, this study analyses the role of the Constitutional Court in maintaining the balance of power in Indonesia. The Constitutional Court not only oversees the constitutionality of laws, but also resolves disputes between state institutions and maintains the balance between the executive, legislative and judicial branches. The Constitutional Court plays an important role as the guardian of the constitution and the stability of government in Indonesia.

## Method

This research uses a qualitative juridical-normative approach to analyse the role of the Constitutional Court (MK) in maintaining the balance of power in Indonesia. This approach aims to examine the legal norms governing the authority of the Constitutional Court and its contribution in maintaining constitutionality and separation of powers. This juridical-normative method aims to understand the application of legal norms and doctrines governing the role of the



Constitutional Court in overseeing executive and legislative power, as well as in maintaining the principle of *checks and balances* in Indonesia. Data is obtained from relevant laws and regulations, such as the 1945 Constitution and Law (UU) Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court. In addition, secondary literature such as books and law journals were also used to explore related issues. This research is descriptive in nature by analysing the data narratively to describe the role of the Constitutional Court in practice. Literature study is used to collect secondary data, while primary data in the form of regulations and Constitutional Court decisions are analysed to see the application of relevant laws.

## Result and Discussion

Indonesia's Constitutional Court (MK) plays a vital role in maintaining the principle of separation and balance of powers in the Indonesian constitutional system. As an institution mandated to safeguard the constitution, the Constitutional Court functions as an independent watchdog tasked with preventing the abuse of power by other state institutions. In this regard, the Constitutional Court plays a role in applying the principle of *checks and balances*, which is the main basis of a democratic system of government. One of the main functions of the Constitutional Court is to conduct *judicial reviews of laws* that are deemed contrary to the 1945 Constitution (UUD 1945). The Court emphasises that its decisions are final and binding, which means that all parties are obliged to comply with the decision. This shows that the Constitutional Court holds great legal power to ensure that every legal product produced remains within the constitutional frame, as well as to maintain legal certainty and justice in Indonesia (Ningrum, 2023; Faqih, 2016).

Furthermore, the Constitutional Court also has an important role in overseeing the implementation of general and regional elections, which are one of the main pillars in a democratic system. In this role, the Constitutional Court ensures that the entire election process runs fairly, transparently, and without manipulation. This is reflected in various decisions related to regional head election disputes, where the Constitutional Court has shown its consistency in upholding the principles of justice both procedurally and substantively. Thus, the Constitutional Court does not only function as a watchdog in terms of the constitutionality of laws, but also as an institution that ensures the integrity of the democratic process from the potential abuse of power by certain parties (Halili et al., 2018).

In addition, the Constitutional Court functions as a protector of citizens' constitutional rights, including economic, social and cultural rights. Through a number of decisions, the Court has ensured that the rights stipulated in the constitution are respected and protected. For example, in several decisions, the Court has recognised the rights to education and health as part of human rights that must be guaranteed by the state. Thus, the Constitutional Court does not only function as a constitutional supervisory institution, but also as a guardian of basic rights that are very important for the welfare of society (Halili et al., 2018).



The existence of *independence* in the operation of the Constitutional Court is also very decisive in maintaining the integrity and credibility of the institution. As an independent judicial institution, the Constitutional Court has the right to make decisions based on the law without any pressure from the executive or legislative bodies. This is important to ensure that the decisions made by the Constitutional Court remain objective and fair, and to keep the Constitutional Court functioning effectively as a guardian of the constitution that is not influenced by political interests or other powers (Qalsum & Wibowo, 2023).

Furthermore, the Constitutional Court plays an important role in maintaining the balance of power between the executive, legislative and judicial branches. As reflected in the principle of separation of powers set out in the 1945 Constitution, these three branches of power have different functions and authorities, but supervise and balance each other to prevent the concentration of power in one institution or party. The Constitutional Court, through its judicial review authority, plays a role in ensuring that all policies adopted by the executive and legislative branches do not contradict the Constitution and are accountable to the public. This shows how the Constitutional Court keeps every policy and law issued in line with the basic values contained in the constitution (Vanberg, 2000; Masterman, 2010; Croissant, 2010).

Within the framework of the theory of *checks and balances*, the Constitutional Court also functions to control and supervise so that no state institution abuses its power. Thus, the Constitutional Court plays an important role in keeping the democratic process in Indonesia running fairly, without any domination or abuse of power by certain branches of power. The Constitutional Court also strengthens the existing separation of powers structure, and oversees that each state institution carries out its functions and authorities in accordance with the applicable constitutional provisions.

The main hypothesis in this research is that the Constitutional Court has a very vital role in maintaining the principle of *checks and balances* in the Indonesian constitutional system. The Constitutional Court serves as an independent watchdog to prevent abuse of power by any state institution. Therefore, the Constitutional Court functions not only as the guardian of the constitution, but also as the guardian of the balance between the executive, legislative and judicial branches. The three main theories that form the basis of this study - namely the separation of powers, constitutional law, and *checks and balances* - interact and complement each other in explaining the role of the Constitutional Court as an institution that maintains a balance between state institutions, as well as protecting the constitutional rights of citizens.

From the results of this study, it can be concluded that the Constitutional Court plays a very important role in maintaining the principle of separation of powers and *checks and balances* in the Indonesian constitutional system. The existence of the Constitutional Court as an independent institution that functions as a guardian of the constitution is key in creating a democratic system of government, where the principle of separation of powers can run optimally and avoid abuse of power. In addition, the role of the Constitutional Court in safeguarding constitutional rights is equally important, considering that these rights are an integral part of democracy and social welfare that must be protected by the state (Ackerman, 2000; Gardina, 2004; Moller, 2015; Siahaan, 2009; Hamad et al., 2022).



## Closing

### Conclusion

This research shows that the Constitutional Court (MK) has a vital role in maintaining the balance of power in Indonesia, by overseeing that there is no abuse of power between state institutions. The Court carries out its functions through judicial reviews of laws deemed contrary to the 1945 Constitution, as well as ensuring that democratic processes, such as general and regional elections, run fairly and transparently. In addition, the Constitutional Court functions as a protector of the constitutional rights of citizens, ensuring that economic, social and cultural rights are protected. As an independent institution, the Constitutional Court plays an important role in upholding the principle of checks and balances, keeping power from being centralised in one institution, and ensuring that every policy and decision taken by the state remains within the constitutional corridor...

### Suggestion and Recommendation

Based on the results of this study, it is recommended that the Constitutional Court (MK) continue to strengthen its authority in conducting *judicial reviews* of policies and legal products issued by state institutions to ensure that these decisions remain in accordance with the constitution. In addition, the Constitutional Court needs to increase transparency and accountability in every decision made so that the public can better understand the process and considerations underlying these decisions. For researchers interested in continuing similar research in the future, it is recommended to explore the dynamics of the Constitutional Court's role in the context of legal and human rights development, as well as to see how the Constitutional Court adapts to the rapid social and political changes in Indonesia. Further research could also delve deeper into the influence of the Court's decisions on government policies, as well as how the practice of *checks and balances* is exercised in the oversight of the legislative and executive institutions. In addition, research that considers comparisons between the Constitutional Court and constitutional institutions in other countries could also provide greater insight into best practices in maintaining the balance of power and preventing abuse of power in a democratic system of government.

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