Jurnal Daulat Hukum
Volume 8 No.4, December 2025
ISSN: 2614-560X
SINTA 3 Decree No. 0547/ES/DT.05.00/2024
Dated May 15, 2024

The Constitutional Court Law Reconstruction of Indonesia: The Rights & Obligations of Lawmakers in Judicial Review

Hafizh Aulia Rahman[1)] & Wicipto Setiadi[2)]
[1)] Faculty of Law, Universitas Pembangunan Nasional "Veteran" Jakarta, Indonesia, E-mail: 2210611376@mahasiswa.upnvj.ac.id
[2)] Faculty of Law, Universitas Pembangunan Nasional "Veteran" Jakarta, Indonesia, E-mail: wiciptosetiadi@upnvj.ac.id

Abstract. *This study discusses the reconstruction of the Constitutional Court Law of the Republic of Indonesia, particularly regarding the rights and obligations of the law-making institutions in the judicial review process. The main focus of this study is on the need to reformulate the norms in Article 54 of Law Number 24 of 2003, which is currently optional, to be imperative, so that the law-making institutions (the House of Representatives and the President) have a legal obligation to be present and provide information in the process of reviewing laws at the Constitutional Court. This research uses a normative juridical method with a legislative, conceptual, historical, and philosophical approach. The results of the study show that the absence of explicit regulations has weakened the principle of legislative accountability in the Indonesian constitutional law system. The proposed reformulation, in the form of the addition of Article 54A to the Constitutional Court Law, aims to strengthen the principles of checks and balances, audi et alteram partem, and due process of law in constitutional adjudication. Thus, this study provides theoretical and practical contributions to strengthening the accountability of law-making institutions and the effectiveness of judicial review in Indonesia.*

Keywords: *Accountability; Constitutional; Court; Judicial Review; Legislative.*

1. Introduction

The concept of state institutional accountability, particularly legislative accountability, is a crucial issue in constitutional law (Jannah et al., 2024). As in the theory of the categorization of state power (Trias Politica), which was championed by John Locke and developed by Montesquieu, and Hans Kelsen's concept of the hierarchy of legislation, which became the theory of the application of legal norms in a state. (Chandra et al., 2022). In practice, state institutions (in this case, the legislative body) play a full role in forming laws based on the highest legal order or as stipulated in the ground norm. As stated in Article 1 paragraph (3) of the Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution), "(3) The Indonesian state is a state based on the rule of law.". In practice, all aspects of state life refer to the legal system applied in Indonesia (rechtstaats). (Republik Indonesia, 1945).

The 1945 Constitution of the Republic of Indonesia is the supreme law and the legal basis (ground recht) of the Indonesian state. In accordance with the Stufenbau Theory of legislation, which makes the 1945 Constitution the highest law in Indonesia, it serves as a reference in the process of drafting legislation. The substance regulated in legislation must be in line with the needs of society. With the rapid pace of globalization driving change, the substance applied in legislation must also adapt. Many of the legal products designed by state authorities are not in harmony with or even contradict the 1945 Constitution of the Republic of Indonesia. Therefore, there is a need for an independent body that has the function and duty of reviewing laws.(Mhd. Himsar Siregar & Sahri Muharam, 2022)

In constitutionalism, there must be guardians and protectors of the constitution so that all norms enforced in the country are integrated into higher laws, meaning that laws must comply with the provisions stipulated in the 1945 Constitution of the Republic of Indonesia. The establishment of the Constitutional Court of the Republic of Indonesia (referred to in this study as MKRI) was legitimized through the third amendment to the 1945 Constitution of the Republic of Indonesia, Article 24C, on September 9, 2001, with its implementation in Law Number 24 of 2003 concerning the Constitutional Court of the Republic of Indonesia (referred to in this study as Law 23/2003), and its amendments and derivative regulations in the Regulations of the Constitutional Court of the Republic of Indonesia (hereinafter referred to as PMK). The establishment of the MKRI is a form of development of judicial power (separation of judicial power) in Indonesia, because before the establishment of the MKRI, the testing of norms was centered on the Supreme Court of the Republic of Indonesia (hereinafter referred to as MA RI). (Prof. Dr. Jimly Asshiddiqie, 2021).

The role of the constitutional court in Indonesia is essential in reviewing norms legitimized in the Constitution, which remain subject to the basic norm, namely the 1945 Constitution of the Republic of Indonesia. As the authority of the Constitutional Court to review laws (hereinafter referred to as judicial review, or JR) has been in place since at least 2003, it is recorded that from 2003 to 2025, the Constitutional Court has decided on 2,125 JR cases. (Mahkamah Konstitusi Republik Indonesia, n.d.). Optimization of legislative accountability in judicial review is still considered inadequate in judicial review due to the negligence of legislators who do not provide information on the legal products that are undergoing JR (Beno\^\it, 2020). This stance is driven by the perceived lack of legitimacy of the lawmaker's right to promote accountability among lawmakers. As stipulated in Article 54 of Law 24/2003, which reads, “The Constitutional Court may request information and/or meeting minutes relating to the petition under review from the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and/or the President.” The word “may” contained in this article is a right granted to lawmakers to provide information on their legal products that are undergoing judicial review (Republik Indonesia, 2003).

The right to provide information in Article 54 of Law 24/2003 is considered to not yet include obligations in the form of applying the principle of accountability of legislators. Looking at previous studies, there has been no reformulation of the change from optional regulations to mandatory regulations for legislators as stipulated in Article 54. By looking at the theory of

legislative responsibility, as well as the principle of checks and balances between state institutions and the comprehensive application of norms in a country governed by the rule of law, this study is expected to provide an in-depth analysis of the reformulation of norms governing the responsibility of legislators towards norms that are still considered to not provide citizens with their constitutional rights in a maximal and effective manner.

This study aims to analyze and determine the extent of the implications of the rights and obligations of lawmakers, to determine how the statements of lawmakers are imperative in judicial review, and to determine the implications of the acceleration of lawmakers in the judicial review process. The implications are seen through the discussion of the decision-making process and the content of the Constitutional Court's decision. To determine the causality if the rights and obligations of lawmakers are added, formulated, and ratified in the reconstruction of the Constitutional Court Law. Thus, it can be reviewed from the discussion process in the legal considerations contained in the Constitutional Court decision. To achieve the objectives of this study, the author discusses the following issues: What are the legal implications of the imperative involvement of the law-making body in providing information in the judicial review process at the MKRI? And what is the normative formulation of the rights and obligations of the law-making body in providing information in the judicial review process at the MKRI?

2. Research Methods

This research used a normative juridical method, which was research derived from juridical substance. The central point of this discussion is the reformulation of optional into imperative information from the law-making institution. To fulfill the research, the author adopted a legislative approach, a conceptual approach, a historical approach (*rechts histories interpretatie*), and a philosophical approach. To fulfill the research, the author adopted primary legal sources, secondary sources, and tertiary legal sources. The data analysis technique used was qualitative, aimed at interpreting the law. (Dr. Muhaimin, 2020).

3. Results and Discussion

3.1. What are the legal implications of the imperative for legislative bodies to provide information during judicial review proceedings at the Constitutional Court of the Republic of Indonesia?

From a linguistic perspective, the word “constitution” is derived from the Italian Latin word “constitutio,” the Dutch word “constitutie,” the English word “constitution,” the French word “constitutionnel,” the German word “verfassung,” and the Arabic word “masyrutiyah.” The Indonesian Constitution adopted the word “constitution” from Dutch. The Constitution can be interpreted as the basis for the formation of a state consisting of fundamental state norms (staats fundamental norm or ground recht). (Unggul et al., 2022).

The 1945 Constitution of the Republic of Indonesia is the legal basis (ground recht) of the Indonesian state. Referring to the Stufenbau Theory of legislation, which makes the 1945 Constitution of the Republic of Indonesia the highest law in Indonesia, it serves as a reference in the formulation of legislation. Many legal products designed by state authorities are not in

harmony with or even contradict the 1945 Constitution of the Republic of Indonesia. Therefore, there is a need for an independent body with the task and function of reviewing laws. (Utami et al., 2025). A constitutional court is needed in every country to serve as an institution with the task and function of harmonizing the norms regulated in legislation with the basic norms contained in a country's constitution. The Constitutional Court of the Republic of Indonesia (hereinafter referred to as MKRI) was established on August 18, 2003, following the enactment of Law Number 24 of 2003 concerning the Constitutional Court of the Republic of Indonesia (hereinafter referred to as Law 24/2003). The authority of the MKRI is explicitly regulated in the 1945 Constitution of the Republic of Indonesia, as stated in Article 7B, Article 24 paragraph (2), and Article 24C, which are the results of the third amendment by the People's Consultative Assembly of the Republic of Indonesia (hereinafter referred to as MPR RI) on November 9, 2001 (Safi & others, 2022).

The process of reviewing the substance of a law against the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as JR) is a process of reviewing a law that is deemed to be contrary to or inconsistent with the norms set forth in the 1945 Constitution of the Republic of Indonesia as the highest norm in the hierarchy of legislation. As explained by Erick Barent, "Judicial oversight is a hallmark of modern liberal constitutions. This refers to the authority of the courts to oversee the conformity of laws and executive actions with constitutional provisions."(Nasir, 2020) The definition of JR is in line with that presented by Jimly Asshiddiqie, who explains that the process of judicial review (JR) is actually carried out by judicial institutions. If a process of reviewing norms is carried out by institutions other than the authorized judicial institutions or outside the authorized judicial institutions, it is not classified as a JR process. (Prasetio & Ilyas, 2022).

In accordance with the duties and functions of the Constitutional Court of the Republic of Indonesia as a constitutional court, the review process in the judicial review process refers to Law No. 24 of 2003 and its amendments. Article 10 paragraph (1) reads, "The Constitutional Court has the authority to adjudicate at the first and final level, whose decisions are final, for: a. reviewing laws against the 1945 Constitution of the Republic of Indonesia;". Further regulations for court proceedings are stipulated in the PMK, specifically in PMK 2/2021 concerning Court Procedures in Law Review Cases (hereinafter referred to as PMK 2/2021). (Chandranegara & SH, 2021).

As stated in Hans Kelsen's Stuffenbau Theory, which was adopted by Indonesia, there is a principle of separation of powers between the legislative, executive, and judicial branches. The differences in authority between these branches of government still maintain a relationship between government institutions in the development of the nation and state. (Muhtar et al., 2023). As stipulated in Article 5 (1) of the 1945 Constitution of the Republic of Indonesia, which grants authority to the President and the House of Representatives, the DPR RI and the President have the authority to formulate laws as a reference and mandate from the 1945 Constitution of the Republic of Indonesia. In this case, the President does hold executive power, but as a matter of consideration, the President has the right to submit a Draft Law (hereinafter referred to as RUU) to the DPR RI. In modern constitutional law theory, which introduces a

flexible presidential system, this fosters a relationship between the institutions of power in the Republic of Indonesia. (Heryanto, 2020).

The concept of co-legislators, which grants the executive and legislative branches the right to jointly formulate laws, represents a substantive shift, as explained by Jimly Asshiddiqie. The principle of separation of powers does indeed emphasize the duties, functions, and authorities of state institutions, but the relationship between state institutions can foster the principle of checks and balances between state institutions. In practice, the dual legitimacy of the executive and legislative branches in the formation of laws still provides equal authority in accordance with their respective roles. This means that there is no conflict of authority between the legislature and the executive. In practice, laws can be proposed by both parties, or by either the president or the DPR RI. The National Legislation Program, abbreviated as Prolegnas, is a collection of urgent bills to be discussed and passed jointly by the DPR RI and the president. The president can also propose bills outside of Prolegnas due to legal vacuums (recht vacuum) or propose Draft Government Regulations in Lieu of Laws (hereinafter referred to as PERPPU) based on urgent matters. (Setiadi, 2022).

In an effort to maximize the principle of checks and balances, it is not only the legislative and executive branches that play a role, but the judiciary also plays a full role in enforcing the legitimacy of policies and norms regulated in a country. The relevance of the Constitutional Court of the Republic of Indonesia (MKRI) as a reinforcer of the principle of checks and balances plays a role in judicial review (JR) which tests the constitutional rights obtained by citizens in every norm in the laws that apply in the life of the nation and state based on the principle of due process of law. (Herlinanur et al., 2024). The measure of success and effectiveness is assessed based on the number of judicial review petitions submitted to the Constitutional Court. The judicial review process at the Constitutional Court also upholds the principle of audi et alteram partem, which allows the parties to be heard. As stated in Article 54 of Law 24/2003, “The Constitutional Court may request information and/or minutes of meetings relating to the petition being examined from the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and/or the President.” This is an adoption of the audi alteram partem principle, as it provides the respondent with the opportunity to provide explanations or statements regarding the basis of the petitioner's petition related to a norm in the law that is considered to violate the constitutional rights of citizens (violating the constitutional rights of the petitioner). (Ar-Razy & Rosidin, 2025).

If we examine it more closely, the correlation between the principle of audi et alteram partem and the principle of legislative accountability is contradictory. Legislative accountability is not merely about how they carry out their duties, functions, and authorities as stipulated in the norms, but also about their responsibility for the legal products they design to implement public policies. As discussed earlier, the success of a law can be demonstrated by the minimal number of judicial review petitions filed with the constitutional court.

The author also examined Constitutional Court decisions that included statements from the DPR RI and Constitutional Court decisions that did not include statements from the DPR RI. First, the

author examined decisions that included statements from the DPR RI, one of which was Constitutional Court Decision Number 75/PUU-XXIII/2025. In reviewing the TNI Law, legislative accountability was exercised in accordance with its authority. The DPR RI argued that the process of deliberating and passing the TNI Law was based on Articles 20 and 22A of the 1945 Constitution of the Republic of Indonesia, Law No. 12/2011 in conjunction with Law No. 13/2022 on the Formation of Legislation (hereinafter referred to as the P3 Law). (Republik Indonesia, 2011). The presence of the DPR RI also explains its legal position as regulated in DPR Regulation Number 1 of 2020 concerning Rules of Procedure and DPR Regulation Number 2 of 2020 concerning the Formation of Laws (hereinafter referred to as TATIB DPR RI). (Mahkamah Konstitusi Republik Indonesia, 2025a). The Indonesian House of Representatives left it to the discretion of the Court to assess the legal standing of the petitioners, but in principle considered that students, as citizens who were not directly involved in the legislative process, could not be considered to have suffered constitutional harm. (Mahkamah Konstitusi Republik Indonesia, 2025a)

The Indonesian House of Representatives provided detailed information regarding the fulfillment of the principles of public participation and transparency in the process of drafting the law. The House of Representatives emphasized that public participation in the formulation of the TNI Law had been carried out in a meaningful manner as stipulated in Article 96 of Law 12/2011 and reinforced in Constitutional Court Decision Number 91/PUU-XVIII/2020. In this context, the DPR outlined three main dimensions of meaningful participation, namely, the right to be considered, the right to be heard, and the right to be explained. According to the DPR, these three rights have been implemented through open forums, such as Public Hearings (RDPU) with various civil society institutions, academics, and student organizations, as well as the publication of the entire process of the Working Committee (Panja) and Plenary Meetings through the DPR's YouTube channel and national media coverage. In addition, the DPR also included evidence in the form of minutes, transcripts, and meeting documentation as a form of legislative transparency. (Mahkamah Konstitusi Republik Indonesia, 2021). Overall, the DPR's position is defensive and legitimizing, emphasizing compliance with the rule of law and transparent legislative processes.

From this ruling, the existence and content of the DPR RI's statement had a significant influence on the direction of the constitutional court judges' legal considerations. From an analysis of the legal considerations presented in the ruling, it can be concluded that the DPR's statement made a substantive contribution, particularly in two main aspects: first, as factual clarification of the allegations of formal defects; second, as a basis for comparison used by judges to assess the completeness of the process in drafting legal norms based on the principles of due process of law making and the principle of openness as referred to in Law 12/2011.

Conceptually, the Constitutional Court of Indonesia considers the statement of the House of Representatives as part of the formal evidence in the formal review of laws. In the case in question, the constitutional judges used the statement of the House of Representatives to examine the conformity between the petitioner's arguments and the procedural facts that occurred in the process of forming the TNI Law. The Court acknowledged that the DPR's

testimony enriched the construction of legal facts, particularly in explaining the existence of academic papers, the implementation of hearings, and the mechanism for changing the National Legislation Program (Prolegnas), which the petitioner had previously considered flawed. Therefore, the testimony served not merely as an administrative formality, but also as a procedural justification that influenced the Constitutional Court's conclusion in assessing whether or not there had been a constitutional violation in the legislative process.

Upon closer analysis, the influence of the DPR RI's statement on the judges' considerations is not absolute or entirely decisive. Constitutional judges still place the statement within the framework of normative testing and do not accept it at face value. The Court explicitly states that even though the DPR RI has provided detailed descriptions of public participation and transparency, the Constitutional Court still assesses whether the form of participation meets the standard of “meaningful participation” as formulated in Constitutional Court Decision Number 91/PUU-XVIII/2020, which is the result of the CIPTAKER Law review. Thus, the DPR's statement serves more as factual supporting data which is then processed and tested for consistency with constitutional norms and the principles of the rule of law as mandated by the constitution and based on Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The judges maintain their control function to assess whether the stages of law formation merely fulfill administrative formalities or truly reflect due process of law making that guarantees procedural justice for the public. (Nurdin & SH, 2021).

The causality between the statement of the Indonesian House of Representatives and the judge's considerations in this case reflects the application of the principle of checks and balances in the context of legislation. The House of Representatives, as the lawmaker, is given the space to explain the rationale and chronology of the formation of the law, while the Court exercises its constitutional oversight function over the validity of such legislative actions. As a result, the judge's considerations in this ruling show that the DPR's statement helped the Court in assessing the fulfillment of the elements of openness and procedural clarity, but did not necessarily eliminate the potential for formal defects if substantial deviations from the principle of public participation were found. (Syah & others, 2023). The function of the DPR RI's statement here is as substantial input whose validity is tested through legal argumentation. The MKRI does not use the DPR's statement as an absolute justification, but as part of constitutional legal triangulation along with other evidence, legal principles, and relevant doctrines in upholding the principle of due process of law making, which is the spirit of formal testing of laws in Indonesia. (UJI et al., n.d.).

However, the absence of the Indonesian House of Representatives (DPR RI) in providing testimony appears to have a significant impact on the judicial review of the law. This was evident in case number 112/PUU-XXIII/2025, where the agenda to hear testimony from the DPR RI was delayed until the sixth court session. In the process of examining the norms of the CIPTAKER Law against the test of the 1945 Constitution of the Republic of Indonesia. Based on the minutes of the hearing on Tuesday, August 19, 2025, which was the agenda for hearing testimony from the DPR RI and the President, the DPR RI did not appear to provide testimony on the judicial review of the CIPTAKER Law. The author assesses that the Constitutional Court of the Republic

of Indonesia (MKRI) applied the principle of legislative accountability quite optimally, so that the hearing continued until the President, witnesses, experts, and the DPR RI were present to read their statements on the CIPTAKER Law. The MKRI continued to wait for the DPR RI's testimony for six hearings, specifically from Tuesday, August 19, 2025, until the DPR RI could attend the JR hearing to provide testimony on the CIPTAKER Law, which was scheduled for Monday, September 22, 2025 (Mahkamah Konstitusi Republik Indonesia, 2025b).

As the Constitutional Court continues to send invitations to the DPR RI to provide information, the importance of the DPR RI's information in judicial review is fundamental. The Constitutional Court could apply the substance of the provisions adopted in Article 54 of Law 24/2003, which is optional, but by upholding the principle of being the guardian of the constitution, the Constitutional Court continues to take firm action on the accountability of the DPR RI. In line with the principle of due process of law, which is an addition to the considerations and opinions of constitutional judges in reaching conclusions and decisions, the Constitutional Court must still refer to the DPR RI's testimony in order to strengthen comprehensive and progressive legal arguments.

3.2 What is the normative formulation regarding the rights and obligations of the organs that formulate laws in providing information during the judicial review process at the Constitutional Court of the Republic of Indonesia?

Referring to the previous discussion which mentioned that in accordance with the mandate of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Indonesia is a rechstaat. Literally, rechtstaat has a definition that encompasses all state structures based on norms and adopted in legal products in accordance with their hierarchy. As stated by F.J. Stahl regarding the rule of law, these include: the separation of state powers based on the trias politica; the government and state institutions exercising their powers, functions, duties, and authorities based on legislation (wetmatig van bestuur); and the existence of an administrative court that has the role of adjudicating government actions that violate the law (onrechmatige overheidsdaad). The implementation of the concept of the rule of law is based on civil law, which is based on legislation as positive law. Therefore, administration is a characteristic of civil law (Selfianus Laritmas et al., 2024).

Quoting from the book entitled “Introduction to the Study of the Law of the Constitution” (1885) by Albert Venn Dicey, it explains that the benchmarks include: The constitution based on individual rights or translated as a constitution based on the recognition of individual rights. (Jamilah et al., 2025). The principle of due process of law emphasizes the importance of implementing the principle of justice in legal norms so that human rights are protected through legislation, policies, decisions, and court rulings. Every government action must be based on valid and written legal provisions. The principle of equality before the law guarantees the equality of citizens before the law, the right to recognition, protection, and fair legal certainty without discriminatory treatment. Meanwhile, the principle of supremacy of law affirms that the law and the constitution are the highest authorities in a country, not individuals or rulers.

Therefore, every issue in state affairs must be resolved based on the law as the highest guideline. (Sutrsino, 2025).

The concept of the rule of law strongly emphasizes the principle of checks and balances in every practice of state power. Before discussing this further, checks and balances refer to the duties, functions, and authorities involved in oversight and reform. The division of power, as described in the trias politica proposed by John Locke and developed by Montesquieu, places great hope in optimizing the principle of checks and balances. The role of the legislative body in creating and enacting laws must refer to the constitutional basis of a country as regulated in the ground norm. As discussed earlier, the judiciary plays a full role in supervising and reforming norms that conflict with the constitution. In this way, the accountability of state institutions can be carried out to the fullest extent in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia. (Romaliani, 2020).

The authority of the Indonesian House of Representatives (DPR RI) to exercise legislative power to formulate laws is regulated in Article 20 of the 1945 Constitution of the Republic of Indonesia, which is followed by Law 17/2014 on the "MD3". The role of the DPR RI in legislation as outlined in Article 69 of the MD3 Law is an absolute regulation of the constitutional mandate based on the division of powers in the theory of trias politica. This means that the DPR RI has full authority in the creation and implementation of legal products in the form of laws. In terms of following up on the Constitutional Court's decision on a judicial review of a law, many researchers have discussed that, as the Constitutional Court's decision is final and binding, requiring all parties to obey and implement the orders stated in the Constitutional Court's decision, this obligation is also regulated in the Rules of Procedure of the DPR RI (hereinafter referred to as TATIB DPR RI) in Article 113 paragraph (3) letter b, which includes orders from the MKRI in an open cumulative list. (Dewan Perwakilan Rakyat Republik Indonesia, 2020).

However, in complying with the DPR RI's summons by the MKRI, there is still a legal vacuum in the MD3 Law and the DPRRI Rules of Procedure. (Republik Indonesia, 2019). Internal regulations in carrying out duties, functions, authorities, and obligations (beschikking) should accommodate the legality aspect in carrying out the legislative role to the fullest extent. Similar to the recht vacuum in the internal regulations of the Indonesian House of Representatives, the government also does not have internal regulations regarding the obligation to comply with the Constitutional Court's request to provide information on the judicial review of a law. Thus, the author finds that compliance with the Constitutional Court's request for information from the president and the Indonesian House of Representatives is based on socio-legal factors of discipline between institutions. In addition, based on the fixed administrative mechanism of the executive power (standard operating procedure), institutional discipline emphasizes the principle of due process of law and compliance with the constitution (constitutional compliance politics), all of which are based on maintaining the dignity of the Constitutional Court as the guardian of the constitution. (Al-Fatih & Muluk, 2023).

Looking at the characteristics of the Indonesian House of Representatives and the president, which are optional, based on the principle of audi et alteram partem. This principle is fully

owned by all parties in court, where all parties have the right to be heard based on the case being tried in court. However, in terms of legislative accountability, the legislators should be given imperative regulations on the substance to be explained in court. As discussed in the previous paragraph, despite the Indonesian House of Representatives' failure to appear on time to provide information on the law being examined, the Constitutional Court still sent a request for information to the Indonesian House of Representatives. In this case, there needs to be a legitimate norm that requires the Indonesian House of Representatives to be present to read and submit information related to the substance of the law being examined by the Constitutional Court.

As this study refers to Article 54 of Law No. 23/2004, there is a need to reformulate the norm to change its optional nature to imperative. The legitimacy of the imperative nature refers to the last call rule as applied in the discussion of the Law in the Indonesian House of Representatives (DPR RI) stage II. The implementation of the last call also increases the efficiency of the constitutional court process, particularly in terms of judicial review at the Constitutional Court of the Republic of Indonesia. By adopting the principle of audi et alteram partem combined with legislative accountability, as well as the last call for the Indonesian House of Representatives, the focus is only on the consequences for the Indonesian House of Representatives if the judicial review is won by the petitioner. In this way, constitutionality can be optimally granted to all parties.

The author reformulated the institutions that formulate laws in providing information to the Constitutional Court during judicial review, which is regulated in accordance with the hierarchy of regulations in Indonesia. The highest regulation remains the amendment to Law 23/2004, the Rules of Procedure of the House of Representatives, and Presidential Regulations (hereinafter referred to as Perpres). The reformulation included in the amendment to Law 24/2003 is as follows:

Article 54 of Law 23/2004 reads:

“The Constitutional Court may request information and/or minutes of meetings relating to the petition under review from the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and/or the President.”

This was then supplemented by one article, which reads:

54A

(1) "To comply with the Constitutional Court's request for information in the process of judicial review of laws against the Constitution as stipulated in Article 54, the DPR and the President are required to attend the predetermined court hearing agenda to provide information and/or meeting minutes regarding the law being reviewed by the Constitutional Court in a timely manner;

(2) In the event that the DPR and/or the President do not attend in a timely manner as stipulated in paragraph (1), the Constitutional Court shall send a request for information 3 (three) times the number of court hearing schedules;

(3) In the event that the DPR and/or the President do not attend the third request, the legal consequences of the judicial review of the Law shall be borne by the DPR and/or the President.

Then, to implement the rules contained in the reformulation of Article 54A, it is also necessary to adopt them in the PMK. This means that there must be a significant change to the norm in Article 5 paragraph (2) of PMK 2/2021, which originally reads "In certain circumstances, the Court may request information from other parties positioned as Related Parties". This phrase must be deleted and replaced with the following reformulation:

Article 5

(1) "The parties referred to in Article 3 letter b are the MPR, DPR, DPD, and/or the President;"

Paragraph 2 is amended to read:

(2) "As stipulated in Article 54A, the DPR and the President are required to attend the predetermined court hearing agenda to provide information and/or meeting minutes regarding the Law being reviewed by the Constitutional Court in a timely manner;"

And the following 2 Articles are added:

(3) "As stipulated in paragraph (2), the Court shall send a request letter and invitation letter a maximum of 3 (three) times for the trial agenda, to attend the trial in the agenda to provide information and/or meeting minutes regarding the Law being reviewed;"

(4) "In the event that the DPR and/or the President do not attend the third summons on the trial agenda to attend the trial in the agenda to provide information and/or meeting minutes regarding the Law being reviewed, the Court shall continue the trial by providing legal consequences based on the parties present."

The changes to the rules set out in Article 54A cannot be revoked by the Constitutional Court itself. Referring to the principle of nemo judex in causa sua, which states that a judge cannot preside over a case that has a correlation with the judge himself. This means that these changes to the norms must be amended directly by the drafters of the law (in this case, the House of Representatives and the President) with reference to open legal policy. As explained by Wicipto Setiadi in his book Ilmu Pembentukan Peraturan-Perundang-undangan (The Science of Lawmaking), the Annual Priority National Legislation Program is a proposal for a bill within a period before the state budget is determined, which must be implemented by the end of the year at the latest. Considering the urgency of this normative change, the author proposes that this normative change be adopted in the Annual Priority Prolegnas with the rationale of

maximizing due process of law in the judicial review process at the Constitutional Court of the Republic of Indonesia. (Setiadi, 2022).

4. Conclusion

The information requested by the Indonesian House of Representatives in the judicial review process at the Constitutional Court is fundamental to constitutional adjudication. Due process of law in the constitutional process states that legislative accountability in constitutional adjudication must be optimized. With the legal vacuum that confirms the accountability of lawmakers, it is necessary to reformulate the norms governing each state institution. The author provides a formulation of norms, primarily the addition of norms regulated in the amendment to Law 23/2004, specifically the addition of 1 (one) Article 54A which adopts the principle of a final summons for the institution that formed the law three times (last call), which then requires the addition of norms in the Rules of Procedure of the Indonesian House of Representatives that require the presence of the institution that formed the law to provide information by adopting legislative accountability, as well as the addition of a legal product in the form of a Presidential Regulation that requires the executive to be present in providing information on judicial review at the Constitutional Court of the Republic of Indonesia, even though the executive has never been late in providing information on the norms being tested. In this way, the principle of constitutionality in Indonesia gives greater priority to the principle of the rule of law, which legitimizes all forms of Indonesian state administration practices. Although there has not yet been a case of the DPR RI not attending a JR hearing, the timeliness of the testimony of the institution that formed the law contributes fully to a more comprehensive MKRI decision. The author fears that if the law-making institutions do not fully attend the JR hearings at the Constitutional Court, it will have a full impact on the legal considerations of the constitutional judges, which will result in the petition being granted in its entirety and an order to change the norms in the law, or even the removal of the legitimacy of the norms in the law.

5. References

Journals:

Al-Fatih, S., & Muluk, M. R. K. (2023). Understanding Beschikking, Regeling and Beleidsregel in Indonesian Legal System. *Audito Comparative Law Journal (ACLJ),* 4(2), 87–95.

Ar-Razy, R. S. M., & Rosidin, U. (2025). Asas-asas Hukum Acara Mahkamah Konstitusi dan Implikasinya terhadap Kewenangan Uji Materi Undang-Undang. *Jurnal Hukum Legalita*, 7(1), 68–78.

Beno\^\it, C. (2020). Legislatures and the administrative state: Political Control, Bureaucratic politics and public accountability. Handbook of Parliamentary Studies*. Interdisciplinary Approaches to Legislatures, Cheltenham,* Edward Elgar, 255–274.

Herlinanur, N., Pangestoeti, W., Putra, A. K. S., & Rahim, R. (2024). Peran Amandemen UUD 1945 Dalam Memperkuat Sistem Check And Balance. *Research Review: Jurnal Ilmiah Multidisiplin*, 3(1), 110–117.

Jamilah, J., Listiani, M., Adhaini, D., & Syamsiah, S. (2025). Negara Hukum Dan Hak Asasi Manusia Di Indonesia*. AKSIOMA: Jurnal Sains Ekonomi Dan Edukasi,* 2(5), 898–912.

Jannah, R., Denna, K. O. A., Prayudha, T. G., Rachmatshah, G. M., Irawan, T., & Hadji, K. (2024). Efektivitas Perkembangan Implementasi Trias Politica dalam Kinerja Lembaga Tinggi Negara. *Perspektif Administrasi Publik Dan Hukum*, 1(4), 16–27.

Mhd. Himsar Siregar, & Sahri Muharam. (2022). Penataan Sistem Hukum Dan Peraturan Perundang-Undangan Berdasarkan Pancasila Sebagai Sumber Segala Sumber Hukum Negarapenataan Sistem Hukum Dan Peraturan Perundang-Undangan Berdasarkan Pancasila Sebagai Sumber Segala Sumber Hukum Negara. *Yudabbiru Jurnal Administrasi* Negara, 4, 15.

Nasir, C. (2020). Judicial Review di Amerika Serikat, Jerman, dan Indonesia. *Jurnal Hukum Progresif,* 8(1), 67–80.

Prasetio, D. E., & Ilyas, A. (2022). Judicial Activism dalam Pengujian Konstitusionalitas Undang-Undang Ratifikasi. Dicky Eko Prasetio Dkk: *Judicial Activism Dalam Pengujian*, 253.

Sutrsino, A. (2025). Peran Hakim dalam Mewujudkan Due Process of Law Pada Sistem Peradilan Tata Usaha Negara di Indonesia. *Locus: Jurnal Konsep Ilmu Hukum*, 5(1), 17–28.

Unggul, A. R. P., Ajati, D. T., Saputra, R. W., & FITRIONO, R. A. (2022). Pancasila sebagai dasar negara. *Jurnal Ekonomi, Sosial & Humaniora,* 4(04), 25–31.

Utami, T., Solihah, S., Maulana, M., Adawiah, I., & Firdaus, M. (2025). Analisis Yuridis Terhadap Penerap Prinsip Legalitas Dalam Peraturan Perundang Undangan di Indonesia. *Journal Customary Law*, 2(3), 10.

Thesis:

Romaliani, K. (2020). *Check and balance dalam sistem pemerintahan Indonesia*. IAIN Padangsidimpuan

UJI, U. D. A. N. B., Harijanti, S. D. W. I., Sh, L. L. M., Sungkar, L., Sh, M. H., & Dramanda, W. (N.D.). Laporan Hasil Penelitian Pengujian Formil Undang-Undang Oleh Mahkamah Konstitusi..

Books:

Chandra, M. J. A., Wahanisa, R., Kosasih, A., & Barid, V. B. (2022). *Teori Dan Konsep Pembentukan Perundang-Undangan Di Indonesia*. Zigie Utama.

Chandranegara, I. S., & SH, M. H. (2021). *Hukum Acara Mahkamah Konstitusi*. Sinar Grafika.

Dr. Muhaimin, S. . M. H. (2020). *Metode Penelitian Hukum* (Fatia Hijriyanti (ed.); 1st ed.). Mataram University Press.

Heryanto, G. G. (2020). *Realitas Komunikasi Politik Indonesia Kontemporer*. IRCiSoD.

Muhtar, M. H., Maranjaya, A. K., Arfiani, N., & Rahim, E. (2023). *Teori & Hukum Konstitusi: Dasar Pengetahuan Dan Pemahaman Serta Wawasan Pemberlakuan Hukum Konstitusi Di Indonesia.* PT. Sonpedia Publishing Indonesia.

Nurdin, H. B., & SH, M. H. (2021). *Kedudukan Dan Fungsi Hakim Dalam Penegakan Hukum Di Indonesia*. Penerbit Alumni.

Prof. Dr. Jimly Asshiddiqie, S. H. M. . (2021). *Konstitusi dan Konstitualisme Indonesia (Tarmizi* (ed.); 2nd ed.). Sinar Grafika.

Safi, S. H., & others. (2022). *Sejarah dan Kedudukan pengaturan Judicial Review di Indonesia: Kajian Historis dan Politik Hukum*. SCOPINDO MEDIA PUSTAKA.

Selfianus Laritmas, S. H., Ahmad Rosidi, S. H., & others. (2024). Teori-teori Negara Hukum. Prenada Media.

Setiadi, W. (2022). *Ilmu & Pembentukan Peraturan Perundang-Undangan*. Jakarta: PT Rajawali.

Syah, M., & others. (2023). *Judicial Preview sebagai Proses Pelaksanaan Checks and Balances dalam Pembentukan Undang-Undang yang Responsif*. IAIN Parepare.

Regulation:

Republic of Indonesia. (1945). The 1945 Constitution of the Republic of Indonesia.

Republic of Indonesia. (2003). Law Number 24 of 2003 concerning the Constitutional Court.

Republic of Indonesia. (2011). Law Number 12 of 2011 concerning the Formation of Legislation.

Republic of Indonesia. (2019). Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council, as last amended by Law Number 13 of 2019.

House of Representatives of the Republic of Indonesia. (2020). House of Representatives Regulation Number 1 of 2020 concerning Rules of Procedure.

Constitutional Court of the Republic of Indonesia. (2021). Decision Number 91/PUU-XVIII/2020 concerning the Formal Review of Law Number 11 of 2020 concerning Job Creation against the 1945 Constitution of the Republic of Indonesia.

Constitutional Court of the Republic of Indonesia. (2025a). Decision Number 75/PUU-XXIII/2025 concerning the Formal Review of Law Number 3 of 2025 concerning Amendments to Law Number 34 of 2004 concerning the Indonesian National Armed Forces.

Constitutional Court of the Republic of Indonesia. (2025b). Minutes of Hearing in Case Number 112/PUU-XXIII/2025 concerning the Material Review of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law.

Constitutional Court of the Republic of Indonesia. (n.d.). Recapitulation of Judicial Review Cases.