JURNAL JURISPRUDENCE
Vol. 14, No. 1, 2024, pp.39-62
p-ISSN: 1829-5045 ; e-ISSN : 2549-5615
Website: https://journals2.ums.ac.id/index.php/jurisprudence/issue/view/172

Principles of Legal Compliance on the Constitutional Court Decisions Adoption in Legislation

A. Sakti R.S. Rakia
Universitas Muhammadiyah Sorong, Indonesia
Ramdhansyah44@gmail.com

Muhammad Ali
Universitas Muhammadiyah Sorong, Indonesia
muhammadali@gmail.com

Laode Muhammad Taufiq Afoeli
Universitas Halu Oleo, Indonesia
murtadhaaliode@uho.ac.id

Wahab Aznul Hidaya
Universitas Muhammadiyah Sorong, Indonesia
wahabaznulhidaya@um-sorong.ac.id

Seguito Monteiro
Fakuldade Direito Universidade Dili (UNDIL), Timor Leste
s.monteiro_1981@yahoo.com

DOI: 10.23917/jurisprudence.v14i1.3149

Submission Track:

Received:
December 8, 2023

Final Revision:
February 13, 2024

Available online:
June 27, 2024

ABSTRACT

Purpose: This study aims to analyze the compliance of the House of Representatives with the follow-up to the Constitutional Court Decision.
Methodology: The research method used normative-juridical legal research. The method used the constitutional approach and the statutory approach.
Results: The results of this study indicate that the Constitutional Court Decision is equivalent to the constitution itself; thus obedience to the decision of the constitutional court is absolute.
Applications of this study: The purpose of this research is to contribute ideas about how every decision of the Constitutional Court can be adhered to with constitutional principles.
Novelty/Orginality of this study: This research found that the Constitutional Court's decision should be deemed equivalent to the constitution. This research also contributes ideas so that

Corresponding Author:
A. Sakti R.S. Rakia
Ramdhansyah44@gmail.com

constitutional obedience can be enforced in every act created as a result of a Constitutional Court decision.

***Keywords**: Constitutional Court Decisions, Legislation, National Law Development, Legal Compliance Principles.*

ABSTRAK

***Tujuan:** Penelitian ini bertujuan untuk menganalisis kepatuhan Dewan Perwakilan Rakyat terhadap tindak lanjut Putusan Mahkamah Konstitusi.*
***Metodologi:** Metode penelitian yang digunakan adalah penelitian hukum normatif-yuridis. Metode ini menggunakan pendekatan konstitusional dan pendekatan perundang-undangan.*
***Hasil:** Hasil penelitian ini menunjukkan bahwa Putusan Mahkamah Konstitusi setara dengan konstitusi itu sendiri, sehingga ketaatan terhadap putusan Mahkamah Konstitusi adalah mutlak.*
***Aplikasi penelitian ini:** Tujuan dari penelitian ini adalah untuk menyumbangkan gagasan tentang bagaimana setiap putusan Mahkamah Konstitusi dapat dipatuhi dengan prinsip-prinsip konstitusional.*
***Kebaruan/Orisinalitas penelitian ini:** Penelitian ini menemukan bahwa putusan Mahkamah Konstitusi harus dianggap setara dengan konstitusi. Penelitian ini juga menyumbangkan gagasan agar kepatuhan konstitusional dapat ditegakkan dalam setiap tindakan yang dibuat sebagai hasil dari putusan Mahkamah Konstitusi.*

Kata kunci: Putusan Mahkamah Konstitusi, Perundang-undangan, Pengembangan Hukum Nasional, Prinsip-prinsip Kepatuhan Hukum

INTRODUCTION

Consideration of the Formation of Legislative Regulations in Act Number 12 of 2011 on the Formation of Legislative Regulations, as amended by Act Number 15 of 2019 (hence Law P3), requires the development of a national law that has been planned and integrated. As a result, sustainability should genuinely represent popular sovereignty and ensure that everyone in Indonesia is protected according to the Republic of Indonesia's 1945 Constitution. Briefly, the Republic of Indonesia's 1945 Constitution serves as the foundation or supreme law of the nation and should be adhered to in the creation of planned, integrated, and sustainable national law, as well as represents the sovereignty of the people.

In the Indonesian constitutional system, the 1945 Constitution of the Republic of Indonesia has been structured to attribute several authorities to high state institutions under the

separation of power principle and checks and balances system (Asshiddiqie, 2014; Husen & Thamrin, 2017). The authority to form laws is owned by the People's Representative Council of the Republic of Indonesia (DPR RI), the President, and the Regional Representative Council of the Republic of Indonesia (DPD RI). Meanwhile, judicial power is managed by the Supreme Court (MA) and its subordinate courts, as well as a Constitutional Court (MK). This attribution by the 1945 Constitution of the Republic of Indonesia denotes that the development of national law is not only pursued through the legislative process but also through jurisprudence.

The essence of national legal development is the existence of sustainability which functions as protection for the interests of society to create order and balance (Djatmiko, 2018; Yorisca, 2020). However, it should be acknowledged that the development of national law is inseparable from the political process which ultimately establishes the character of legal products influenced by certain political configurations (Halim, 2014). Further, this is motivated by the abolition of the Broad Guidelines of State Policy (referred to as GBHN) which was replaced by the National Long Term Development Plan (referred to as RPJPN) after the Amendment to the Constitution, which led to the development process improperly centralized due to the massive wave of parliamentary politics, as well as decentralization and regional autonomy (Ratnaningsih, 2016). The pattern of political distribution between the center and the regions is occasionally unsynchronized and disharmonious provoked by different variants of interests, which naturally prompts a pile of regulations that are at odds with the idea of developing national law.

The existence of a pile of regulations due to legislation that goes too far and violates the direction of national legal development can indeed be suppressed through the process of regulation simplification, especially in the executive government environment (Rakia, 2021c). However, given the natural nature of political power which appears to dominate (Rahardjo, 2014), the line of legislation requires a legal configuration that has absolute binding power (efficacy). This not only aims to restore legal politics and the legislative process corresponding to the direction of national legal development but also serves to suppress the phenomenon of legislative corruption which is exercised "recklessly" and unilaterally (fahmi ramadhan firdaus, 2020).

The phenomenon of legislative corruption carried out "recklessly" and unilaterally is evident in the reality of law formation in Indonesia, for instance, in the Constitutional Court Decision Number: 92/PUU- Number 17 of 2014 on the People's Consultative Assembly, the

People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council, as amended by Act Number 13 of 2019 (hence the Third Amendment MD3 Law). One of the Court's decisions, in this case, is that the DPD's legislative role should be perceived in conjunction with the DPR's and the President's legislative functions (Decision of the Constitutional Court of the Republic of Indonesia Number: 92/PUU-X/2012 and Decision Number: 79/PUU-XII/2014). However, in the Amendment to the P3 Law, the DPD's institutional position in law formulation is only limited to the preparation of the National Legislation Program, which previously the preparation of the National Legislation Program only consisted of the DPR and the Government.

Another phenomenon that suggests the "reluctance" of legislation in the formation of national law is reflected in the formation of law in the socio-cultural setting, especially regarding religion and diversity in Indonesia, which both focus on national legal development. In the National Legal Development Document released by the National Law Development Agency of The Ministry of Law and Human Rights (BPHN KEMENKUMHAM), an area of legal development in the social and cultural sector embraces the criminal act of blasphemy (DPHN, 2019). This legal development in the religious context responds to several Constitutional Court Decisions (Constitutional Court Decision Number: 140/PUU-VII/2009; Number: 84/PUU-X/2012; Number: 56/PUU-XV/2017; Number: 76/PUU-XVI/2018; and Number: 5/PUU-XVII/2019), in which the Constitutional Court asserts that although Law Number 1/PNPS/1965 is constitutional, it requires improvements to guarantee the freedom and comfort of the people in adhering to their beliefs. To this day, Act Number 1/PNPS/1965 has not been amended, nor has a new law been formed to accommodate the Constitutional Court Decision.

There is also the phenomenon of legislation carried out unilaterally without any consideration of the Constitutional Court's decision, namely Article 73 Section (3), Section (4), Section (5), and Section (6) as well as Article 122 Point l of the Second Amendment MD3 Law which is pronounced contradictory with the 1945 Constitution (UUD 1945) and does not have binding legal force (Constitutional Court Decision Number: 16/PUU-XVI/2018). The phrase "Summons and requests for information from members of the DPR regarding the occurrence of criminal acts that are irrelevant to the implementation of duties as intended in Article 224 shall obtain written approval from the President." in Article 245 Section (1) of the MD3 Law contradicts to the 1945 Constitution and entails no binding as long as it is not interpreted as

merely subpoenaing and requesting information from members of the House of Representatives who are suspected of committing a criminal act (Indonesia, 2019). However, in the Third Amendment to the MD3 Law, the *quo* Articles are not attuned based on the Constitutional Court Decision.

The phenomena described reflect that legislative activities are not carried out synergistically and bluntly follow national legal development. In the legislative process, the planning and discussion stages incorporate rather high vulnerabilities (Purawan, 2014). The vulnerabilities in legislation are controlled by the authority of the parliamentary chambers whose authority is asymmetrical and does not reflect the principle of a check and balance system, resulting in power domination and monopoly in the legislation and supervision (Kosasih, 2016). Non-synergistic work among institutions is modified by conservative habits that retain the autonomy of their respective authorities or is carried out with comprehensive competition (Norton, 2020), considering that one of the parliamentary chambers possesses independent members (Jasir, 2020).

Legislative process regulates in Article 10 Section (1) Point d of the P3 Law that the content material that should be governed by law contains follow-up actions to the Constitutional Court's decisions, following an open cumulative system. Nonetheless, in Article 18 of the P3 Law, the list of bills prepared in the National Legislation Program is no longer executed as a follow-up to the Constitutional Court's decision. In other words, regardless of the material content and open cumulative system being implemented based on the Constitutional Court's Decision, it appears that the P3 Law grants the lawmakers the authority to draft the National Legislation Program without pursuing the Constitutional Court's Decision. It is not to mention the “Program Legislasi Nasional Super Prioritas” (hereinafter referred to as the Super Priority National Program) which remains controversial since its drafting was performed unilaterally by the legislators (Rakia, 2021a).

The legislators' non-compliance with the follow-up to the Constitutional Court's Decision is also affected by the time limit given to the DPR and the Government so the Constitutional Court's Decision cannot be implemented (Fajarwati, 2017; Jaelani, A. K., IGAKR, H., & Karjoko, 2019). Apart from that, there is no coherent state regarding which institution should follow up on the Constitutional Court's decision, hence the form of follow-up is rather varied (Mahrus Ali & Rahmawaty Hilipito dan Syukri Asy, 2015) or is often neglected (Huda, 2020). The implementation of follow-up to the Constitutional Court's decision is

modified by several factors. First, the position of the Constitutional Court is perceived as a negative legislature. Second, there is no special enforcement agency. Third, there is no due to implement the decision. Fourth, there are no consequences for disregarding the Constitutional Court's decision (Maulidi, 2017). In the practice of legislative regulation review, the concept of open legal policy does not have obvious boundaries so the meaning of positive legislator and negative legislator is interchangeable when forming and reviewing judicial (Satriawan & Lailam, 2019).

As stated at the opening of the article, multi-institution collaboration is required for the formulation of national laws based on the Indonesian constitutional system. Nonetheless, the legislators' disregard for several decisions from the Constitutional Court demonstrates that monopolistic political activity permeates the process of creating national law. In addition to serving as the constitutional defender, the Constitutional Court acts fundamentally as a reflection of the legal framework that Indonesia's state administration has opted for (Ahmad & Nggilu, 2020). In other words, the process of developing national law based on the Indonesian constitutional system is actualized through synergistic work between legislators and the courts. Therefore, the Constitutional Court's decision should be acknowledged as part of the national legal development process.

The check and balance system adopted by Indonesia is not only a notion that state institutions should control and balance each other but also every decision issued by an institution should be legally abided by. The prejudice that the Constitutional Court's position is a negative legislator does not have a strong foothold if viewed according to the theory of legal formation. Besides, in practice, it is manifested in the Constitutional Court's decisions that the Constitutional Court has acted as a Positive Legislator on several occasions (Akmal et al., 2020). Even if this opinion should be acknowledged, it is undeniable that the institutional legal status of the Constitutional Court is crucial in the formation of national law, particularly in the formation of laws. If we observe from the perspective of the history of the Indonesian state constitution, it is expressed in the will of the framers of the constitution to form a judiciary whose function is to examine regulations formed by the legislature contradicting to the constitution (Isra, 2020).

This research aims to examine 2 (two) key points that also form the problem formulation, namely (i) What is the nature of follow-up to constitutional court decisions in legislation? (ii) What is the process of formulation of laws based on the principle of legal

compliance? Before resolving the 2 (two) problems, this research commences by explaining, in general, the position of the Constitutional Court as a Constitutional Court, the authority to form laws, and the principles of legal compliance. Next, the problem formulation will be discussed in the sub-chapter which explains synergy and checks and balances in the formation of laws to answer the problems.

RESEARCH METHOD

Normative-juridical legal research is the research methodology used in this research. This research refers to the legal requirements of all applicable laws and regulations related to the research title. The statutory approach and the constitutional approach were employed in this study. A qualitative approach was considered in the processing and analysis of library materials in the configuration of primary, secondary, and tertiary legal materials, which were processed and analyzed qualitatively, following the research methodology employed. The processing and analysis comprise the content and structure of positive law, i.e., acts performed to ascertain the law's content or meaning. Legal materials were processed or analyzed by performing legal synchronization levels, namely tracking and measuring the extent to which prevailing written positive laws are in sync or harmonious with each other.

RESULTS & DISCUSSION

A. The Nature of Follow-up to Constitutional Court Decisions in Legislation

1. The Existence of the Constitutional Court and the Importance of Its Establishment

Judicial power as one of the branches of power in the theory of separation of powers implies that this power is entrusted with the authority to carry out the due process of law (Asshiddiqie, 2015; Barber & Fleming, 2007; Ducat, 2009; Erwin Chemerinsky, 2015). According to its concept, judicial power is a sphere of power authorized to adjudicate conflicts between state institutions, between the state and individuals, and between individuals (Barnett's, 2013). Judicial power is independent from legislative and executive interference. The independence of the courts is critical both concerning government according to law and protecting the human rights of citizens (Barnett's, 2013), or carrying out judicial reviews of laws. The judicial review authority is a logical consequence of the implementation of judicial power itself in the

structure of modern constitutional law (Ducat, 2009). In Bora Laskin's description quoted by John Schmidhauser, the characteristics of court models encompass at least five models, namely the English Model, the Supreme Court of the United States Model, the "Purely Federal" Court, the Purely Constitutional Court, and France's Court of Cassation Model (Mary Hawkesworth, 2002).

In the rule of law of Timor Leste, the idea of establishing a Constitutional Court in 2002 is closely related to the spirit of upholding constitutional law and justice. Timor Leste's constitutional court functions to safeguard legal constitutional rights and should be aligned with other sections of state power (Luis & Fatima, 2020). As a democratic country, Timor Leste believes that the constitution will create a sense of shared identity. It can also play a nation-building role by defining political ties between people, and a peacebuilding role by encouraging reconciliation and building state institutions within society (Wallis, 2016).

The constitutional basis for the application of judicial power in the Indonesian constitutional system is included in Chapter IX of the 1945 Constitution of the Republic of Indonesia. In Section (2) of Article 24, the Supreme Court (MA), its subsidiary courts, and the Constitutional Court (MK) exercise judicial power. The term "and a Constitutional Court" emerges in Article 24 Section (2), indicating that the Supreme Court and the Constitutional Court are not subservient to one another, but equally subordinate to the Constitution. Although in Indonesia’s constitutional history, there has been mention of the formation of a court whose function is to review regulations that collide with the constitution (Isra, 2020; Putra, 2018), the post-reformation of the Constitutional Court was marked by the two Ad Hoc Committees I of the MPR RI Working Body (PAH I BP MPR) conducting comparative studies in 21 (twenty-one) countries, which are further discoursed and formulated in the Third Amendment (Sutiyoso, 2016).

In the post-reform Indonesian constitutional system, the founding of the Constitutional Court is strongly tangled with the concept of constitutional review or judicial review, which was influenced by the Marbury vs Madison case (Indonesia, 2015). Constitutional review is targeted to ensure that the Constitution is extensively implemented or enforced in the state administration process (Siregar, 2018). In modern democracies, it is customary to rely on courts with the power of constitutional review

to ensure that elected officials do not violate their constitutional obligations (Krehbiel, 2016). The formation of the Constitutional Court was not only to tone down the constitutional function of the Supreme Court but could be seen as a consistent effort in structuring the Indonesian constitutional system, considering that at that time the MPR was authorized to carry out judicial reviews (Rakia, 2021b).

The formation of the Constitutional Court was triggered by poor state administration, especially during the New Order era which was rife with cases of corruption, collusion, and nepotism, so the values of justice and the constitutional rights of citizens were transgressed (Darmadi, 2011). By attaching political matters to the Constitutional Court, it is deemed that, in fact, by its “nature," the Constitutional Court is perceived as a political institution (Perwira, 2016). If observed further, the Constitutional Court's decisions do have a socio-political impact on state dynamics (Faiz, 2016), but it is evident that the Constitutional Court's decisions are decided according to their function, namely testing the applicability of the law to the Constitution. At this point, the Constitutional Court seems to remind us that the state, as the highest organization in society based on political consensus, not only possesses the authority to regulate but is also obliged to guarantee the realization of justice through legal instruments under its control and enforce them through the courts. Therefore, even if the Constitutional Court is referred to as a political institution, its political direction is following the law and its function is to protect citizens.

2. The Authority of the Constitutional Court in Judicial Review

One of the powers of the Constitutional Court as asserted in Article 24C Section (1) of the 1945 Constitution of the Republic of Indonesia, implies that the authority of the Constitutional Court is examining Laws against the Constitution. However, the Constitutional Court's authority to carry out a legal review of the Constitution cannot be exercised for every type of legal enactment. Based on Article 50 of Act Number 24 of 2003, as amended by Law Number 7 of 2020 (hereinafter referred to as the Amendment UUMK), elucidates that judicial review of the Constitution only applies to Laws promulgated after the Amendment Constitution.

Moreover, Article 56 Section (1) expresses that if the Constitutional Court believes that the applicant and its application do not satisfy the requirements as intended in Article 50 and Article 51, the decision states that the application is

unacceptable. In other words, not every law can be examined because there are limitations in testing laws against the Constitution. The limitations appear inconsistent when the Constitutional Court reviews Act Number 14 of 1985 on the Supreme Court in Constitutional Court Decision No. 004/PUU/2003 (Irawati, 2004), however, according to the Constitutional Court Article 50 of Act No. 24 of 2003 it eventually declares to have no binding force (Hastututi, 2016; Sulistyowati, 2006).

Using simple legal logic, the MK's authority to review laws against the Constitution is very understandable because the process of law formation is an intersection process between law on one side, and politics on the other. It is believed that "the rule of law simply is the democratic rule of persons" (Hickey, 2019) so a constitutional balance of legal power is demanded. The Constitutional Court's capacity as "the guardian of the constitutions" or "the sole and the highest interpreter of the Constitution" has a significant role in constitutional law theory which safeguards the constitutional rights of citizens.

Sometimes misunderstanding occurs regarding the jargon “the only and most authoritative constitutional interpreter” which is translated as the MK is the sole/supreme institution to convert the constitution (M. Ali, 2016), especially the MK decisions which are *erga omnes* in nature. However, this opinion is not robust conceptually because there is no such clear and firm formulation in the Constitution. In practice, legislators transcribe the constitution, and this is legally valid as reflected in the legal products issued. Conceptually, the relationship between law and politics and between the legislature and the judiciary, even if it presents a special status to the courts, does not have the highest role in interpreting the Constitution (Harel & Shinar, 2012). Therefore, even though the Constitutional Court's decision is *erga omnes*, it is more accurate to describe that the Constitutional Court is "the final interpreter of the Constitution". Moreover, the title "the guardians of the constitutions" in practice is not only attached to the "Constitutional Court" but also to the "Supreme Court" (Bauman & Kahana, 2006).

Testing of a law is usually carried out in formal or material testing. Formal testing (*formele toetsubfsrecht*) perceives the validity of the procedure for forming the bill. Then, the right to test the material (*materiele toetsingsrecht*) is to observe the suitability of the material contained in the law to higher norms (Rishan, 2021). In

formal testing evidence, the pattern of evidence used is to focus on proving the argument along with the applicant's evidence, then framing whether the argument is strong or otherwise (Widiastuti & Wibowo, 2022). Although it is said that the MK rarely or even does not grant formal tests (Fathorrahman, 2021; Ali Marwan, 2022), because it seldom considers the principles of forming statutory regulations (Sumodiningrat, 2021). In MK Decision Number 91/PUU-XVIII/2020, the MK granted some requests for formal tests against Act Number 11 of 2020 on Job Creation.

Apart from formal tests, the Constitutional Court also carries out material tests. In general, material review is to investigate and assess whether the contents of a statutory regulation correspond or conflict with regulations of a higher level, as well as whether a particular authority (*verordenende macht*) has the right to issue a particular regulation (Isra, 2016; Soemantri, 1997). Nevertheless, this perception remains general because the right to material review (*materiele toetsingsrecht*) is innately owned by the Constitutional Court or the Supreme Court. Material testing is related to the possibility of material conflict between regulation and other higher regulations or concerns the particularities of regulation compared to commonly accepted norms (Nurhidayatuloh, 2016). Simply, the judicial review at the Constitutional Court occurs if a law is declared to be contrary to the 1945 Constitution of the Republic of Indonesia (Sumadi, 2016).

B. Lawmaking Process Based on the Principle of Legal Compliance

1. Lawmaking Authority

Theoretically, in constitutional studies, it is comprehended that one of the legislative powers is the power or authority to form laws (Rakia, 2021c). Dicey, as quoted by Alex Caroll, asserts that the concept of separation of powers is associated with 'continuing' sovereignty and that there should be no competency limits for the DPR's legislative authority (Alex Caroll, 2007). What has been established by Parliament entails supreme force so it should not be able to be overturned or changed by any other domestic or external authority (Alex Caroll, 2007). However, with the development of modern constitutionalism, such a truly strict separation of powers has been dominantly abandoned.

Based on Article 20 Section (1) of the 1945 Constitution of the Republic of Indonesia, the power to form laws is vested in the DPR, although legislative authority is demonstrated in the executive and DPD. Before the amendment to the 1945 Constitution, the President's legislative power was powerful. Post the amendment, although the authority to form laws was assigned to the DPR, the President's legislative authority was deemed to weaken the legislative function of the DPR (or DPD), resulting in an imbalance between executive and legislative powers (Daniele Susilo dan Mohammad Roesli, 2018). The President has legislative authority because such a position is obtained from the attribution of Article 20 Section (2) of the 1945 Constitution of the Republic of Indonesia.

Apart from the President's legislative authority, the other problematic polemic regarding the function of legislation is the DPD's legislative authority. Since Constitutional Court Decision Number: 92/PUU-X/2012 and Decision Number: 79/PUU-XII/2014, to date, the DPD's legislative function has not improved in practice or as expected by the public. From a theoretical perspective, the DPD should have equal authority as the DPR and the President in exercising their legislative functions, which is also reinforced by the Constitutional Court Decision. Strengthening the DPD's legislative function is always sought by amending the Constitution, or by applying the mechanism of the Constitutional Convention (Husen & Thamrin, 2017). On the one hand, the President as the executive branch of power owns legislative authority, while the DPD, which by nature is a legislative institution, possesses a weak spot. This imbalance of authority in the formation of laws between institutions ultimately brings about inconsistent and one-sided law formation.

To implement the separation of powers with a "check and balance system" mechanism, questions arise regarding how supervision can be performed over the legislative process. This can be achieved in at least 2 (two) ways, first, internal-active-preventive (internal supervision) by the President according to Article 20 Section 2 of the 1945 Constitution. Second, external-passive-repressive (external supervision), namely the legislative process which is supervised by the Court, in this case, the Constitutional Court, by Article 24C Section 1 of the 1945 Constitution of the Republic of Indonesia (Kusuma, 2017). Although these two forms of supervision are intriguing,

in practice the problem of forming laws originates from the failed implementation of internal supervision, or not "heeding" external supervision.

2. Legal Compliance Principles

One of the main loci of concentration in the study of law is obedience to the law. The study of legal compliance begins with the questions of why people (individuals, governments, organizations) obey the law, how and why, what are the sanctions for compliance, and what are the obstacles to obeying the law, which in the end is all to measure the effectiveness of the law (A. Ali, 2017). Furthermore, the reason for abiding by the law is due to internal factors such as deterrent effects or fear or external pressure in the form of strict sanctions (ibid).

Of the many types of obedience, one form is legal obedience. According to H.C. Kelman & Pospisil, legal compliance consists of identification, internalization, and compliance (ibid). Compliance is defined as, “an overt acceptance induced by expectation of rewards and an attempt to avoid possible punishment –not by any conviction in the desirability of the enforced rule. The power of the influencing agent is based on 'means-control' and, as a consequence, the influencing person's influence is only under surveillance (ibid)." In short, legal compliance is an acceptance (obedience) of something due to external punishment, but it requires continuous supervision (continuity).

In the same vein, H.L.A. Hart explains that discussions about legal compliance enlighten ideas or notions about the state of compliance. First, the state of obedience required of those who are addressed by the lawmakers, and second, obedience by those who hold sovereignty over the law (Hart, 2012). Obedience can be obtained because it is habitual (the habit of obeying) which may occur because of the relationship between citizens and rulers in the royal tradition, or obedience between the people and their Messenger. According to Hart, such compliance does not require literal explanation because its form is very simple, yet it carries the risk of discontinuity (ibid). Moreover, compliance is achieved due to coercive orders because it shows that a rule will not be effective if it is not accompanied by certain punishments (ibid).

In another quote, Hart affirms that there are 2 (two) ways to encourage compliance, namely:

a. Being 'required', being forced to act in a certain way because of threats, such as when a gunman orders someone to hand over money.
b. Being under an obligation is to feel within oneself that there is an imperative to act in a certain way, without an external stimulus forcing that action (Chinhengo, 2000).

Studies of legal compliance imply that the law can provide a framework for envisaging and predicting what others might do. Apart from coming from sanctions and legitimacy, legal compliance can also be obtained by displaying outstanding results though this is done once. In an experiment, the findings obtained were that compliance with the law contains an element of coordination and an element of negotiation (McAdams & Nadler, 2008). Another analysis that describes the relationship between the police and the community, reveals that the impact of legal compliance grows when there is a shared perception of fair procedures, regardless of whether it reflects a causal relationship or otherwise (Nagin & Telep, 2020).

Studies on compliance theory state that legal compliance is acquired from clear objectives and that theoretically compliance and non-compliance are not consistent every time. This is conducted to obtain compliance action that is limited in momentum. If related to the study of policy formation, the focus point is how public regulations influence the goal set and option set, namely so that a regulation that is formed will influence the formation of legal policy choices (ETIENNE, 2011). However, it can be guaranteed that the formation of a legal norm in a modern state should be attached to coercion so that the law is agreed upon, decided, and enforced to its destination. Compliance with the law lies in its essence as law both constitutively and regulatively, following the Roman law maxim itself, namely "*lex minus dixit quam voluit and lex magis dixit quam voluit*" (the law says what it wants) (Boella et al., 2009).

3. The Essence of Constitutional Court Decisions in Legislation

There is a classic adage that states that "law and politics cannot be separated", or a narrative that "law is a product of politics" (Mahfud, 2013), so there is an opinion that the formation of law requires a driving force, namely political power. Even though this opinion is acknowledged, it is undeniable that the political atmosphere and activities in the formulation of these regulations are regulated by law. For instance, a law's enactment becomes valid if it is formed through processes regulated by law. The discourse regarding the relationship between law and politics is affected by the natural

nature of law which is more limited, while politics appears to dominate (Rahardjo, op.cit, 2014). In Indonesia, the relationship between law and political power is necessarily harmonious because the legal system adopted by Indonesia leads to positivism (Hajiji, 2013).

The 1945 NRI Constitution Amendment, with all of its prowess and drawbacks, establishes the Indonesian constitutional framework, which calls for sustainable growth and law enforcement that prioritizes the welfare of the populace, which is also written in the basic agreement of the Amendment of 1945 NRI Constitution (MPR, 2016). The Constitutional Court as a court that resolves problems with laws that do not correspond to the Constitution is an inseparable part of the Indonesian people's desire to strengthen the realization of a just and prosperous legal state which was previously subordinated to politically heavy.

The Constitutional Court's authority to review laws against the Constitution was inseparable from the spiritual atmosphere of the Indonesian people who at that time wanted a judiciary that functioned to maintain the consistency of laws against the Constitution (Indonesia, 2010). This serves as an affirmation of the principle of the rule of law and the need to protect human rights (constitutional rights) which are promised by the constitution, as well as a means of resolving several problems that happen in undetermined constitutional practice (ibid). Therefore, the Constitutional Court is seen as an institution with several functions, namely as the guardian of the constitution, the sole interpreter of the constitution, the guardian of democracy, as well as the protector of citizen’s constitutional rights, and an institution that protects human rights (Rubaie, 2017). It is worth writing that the Constitutional Court is the final interpreter of the Constitution because the Constitutional Court's decision is final and binding or *erga omnes*.

According to Article 24C Section (1), one of the Constitutional Court's authorities whose rulings are final and binding/*erga omnes* is judicial review of the Constitution. This is distinct from the Constitutional Court's decision, which concerns the DPR's assessment of alleged infractions by the President and/or Vice President. The *erga omnes* principle is applied to the Constitutional Court's decision because it is final and binding. This is the reason behind the birth of the principle. Although in many cases this is not working (Nugroho, 2019), the Constitutional Court’s *erga omnes*

decision aims to guarantee legal certainty. Therefore, it should be binding on all parties, both individuals and institutions (Hakim & Rasji, 2018; Heriyanto; Gulo, Farius; Ubaidillah, 2021; Isra, 2015). Given that Constitutional Court Decisions in judicial reviews of laws are final and binding, every Constitutional Court Decision relating to the review of Laws against the Constitution is logically absolute and compelling. However, the Constitutional Court's decision's requirements for coercion are rather obscure, leaving a gap for negligence of enforcement, especially when the Constitutional Court declares that the open legal policy is the power of the DPR (Mantara Sukma, 2020).

In judicial studies, the existence and supremacy of the court lies in the accuracy and binding power of a decision which, of course, is one body with the role of a judge. This denotes that respecting a decision is influenced by the institutional and intellectual quality of a judge. A court decision regarding problems faced by society cannot be taken without measurable considerations (*ratio decidendi*) by the judges. Even though a court decision has binding legal force, it is entangled with judgments related to the Constitution, laws, precedents, conventions, scholarly doctrine, or social welfare considerations (Murphy, 2014). At this pivotal point, the Court, through the judges, should explain how and why the "hammer slap" was imposed, including if there is a dissenting opinion (ibid).

As one of the highest state institutions, the position of the Constitutional Court as a “biological child” of reform was formed as an attempt to harmonize the supremacy of the constitution with the politics of statutory regulations. In constitutional structure, positioning the Constitutional Court as a high state institution is a mere positioning of its decisions "in line" with the constitution, so, logically, there is no dual trial or judicial review of every Constitutional Court decision. The Constitutional Court's decision so the spirit and dignity of the constitution which concerns the fundamental rights of citizens, which is dissimilar from other court decisions that do not always impose legal consequences for all citizens. Meanwhile, in terms of the quality and intellectuality of judges, the selection of Constitutional Court judges is carried out using strict standards and criteria and reflects the principle of check and balance.

4. Legislation Based on Legal Compliance Principles

An analysis carried out regarding public trust in the performance of the DPR RI for the 2014-2019 period concluded that the level of public trust in the DPR RI was at 47-52%. This presentation was considered concerning during the 10 (ten) years of reform, one of which was marked by the poor legislative products in the DPR (Rasaili, 2015). So far, there has been no firm regulation to encourage (even force) law-forming institutions to produce a minimum number of legislative products per year, so that the number of legal products produced through legislation is flexible.

It is expressly stated in Article 10 Section (1) letter d, Article 10 Section (2), and Article 23 Section (1) point b of the P3 Law, that the Content of the Law and the preparation of the National Legislation Program should consider the Constitutional Court's Decision. The Elucidation of the P3 Law explains that "follow-up to the decision of the Constitutional Court" is related to the Constitutional Court's decision on judicial review of the 1945 Constitution of the Republic of Indonesia. The law whi'h is expressly stated in the Constitutional Court's Decision is opposite to the 1945 Constitution of the Republic of Indonesia. The follow-up to the Constitutional court's decision is'aimed at preventing a legal vacuum from occurring.

Even though it has been regulated in such a way, as aforementioned, in practice the formation of laws does not always, or not all of them, accommodate MK decisions. Several factors affect why laws are not always or always fully incorporated into the formation of the law made by the Constitutional Court. First, the Constitutional Court's decision is perceived as contentious because there are reasons to doubt it on both an internal and external level (Lumbuun, 2009). This factor has the potential to strengthen considering that in judicial reviews, law-making institutions tend to defend the laws they make. Second, there is a long legislative process and the need for legal addresses and a dynamic society (Wicaksono & Nugroho, 2021). Third, the rulings of the Constitutional Court can be classified under a variety of categories, such as *ultra petita*, conditional unconstitutional, and potentially normative verdicts.

Fourth, there is no designation of which institution should follow up on the Constitutional Court's decision. In preparing the national program, each institution authorized to form laws tends to compile a list of national programs based on certain interests or aspirations of its constituents. Considering that law-forming institutions

are full of constituent political dimensions, the main consideration of parliament members is to prioritize certain interests or the interests of constituents. Thus, the absence of an appointment as to which institution is obliged to follow up on the Constitutional Court's decision has the potential for non-compliance. Fifth, there is no coercion or strict sanctions against law-forming institutions if they do not follow up on the Constitutional Court's decision. The existence of flexibility in following up on Constitutional Court Decisions provides a gap for law-forming institutions to feel that they are not being given constitutional responsibility. Frequently, legislators postpone a court decision to avoid debate, because they feel they have constitutional freedom in determining plans for forming regulations (Walen, 2009).

As mentioned previously, the Indonesian constitutional system adheres to legal development which does not only consist of the formation of statutory regulations but is also based on court decisions. This is an attempt to make the check and balance system's implementation stronger to stifle the flow of connections between politics and the law, by providing a synergistic working node between high state institutions. Compliance with legal formation is a reflection of morality because the basic elements of good law enforcement originate from good morality. If Indonesia is a nation of good morality, then legislative morality for the sake of creating the national legal development that is aspired to can be realized.

This situation is an opportunity that can be used to encourage legislative performance that is aligned with the direction of national legal development and community development. In responsive legal theory, it is said that "responsive institutions" consider social pressures as a source of knowledge and an opportunity for self-correction (Nonet et al., 2017). Several principles can be used in the process of forming Legislative Regulations described by Lon Fuller which are called the principles of procedural morality in legislation (Chinhengo, 2000; Fuller, 1964), namely:

a. There should be rules, that is, a rule based on the commands of the law that govern the subject's behavior and how that behavior should be managed.
b. The rules ought to be proactive rather than reactive. Those whose behavior will be governed should be informed if rules governing human behavior are to be implemented.

c. The rules should be made public. The public or institutions should be aware of the types of behavior that will be governed by legal rules; thus, supplying this information is critical to the operation of law as a system.
d. The rules must be comprehensible, which means that the implementation of the law should be understood by all parties.
e. The rules must not conflict with one another. When legal rules contradict, organizations or persons become confused about which norm should take precedence, impeding legal compliance.
f. Conformity with the regulations, that is conformity with the rules must be attainable.
g. The rules should not change regularly, that is, the regulations should not alter constantly. Legal certainty is an important component of law as a rule-making system.
h. The declaration and publication of the rules and the conduct of the individuals in charge of implementing and upholding them must coincide. The acts of the authorities in charge of putting the rules into effect and upholding them must line up with the published and issued regulations.

CONCLUSION

Based on the description above, it can be inferred that: First, the Constitutional Court reflects the process of checks and balances, namely as an institution that can balance the power of the legislature in the formation of laws that have political nuances. The nature of the Constitutional Court Decision should be interpreted as a reflection of the binding force of the Constitution so that it is believed that the Constitutional Court Decision is comparable to the Constitution. Second, the lack of legal compliance with the follow-up to the Constitutional Court Decision is modified by the controversial Constitutional Court Decision. This has led to a lack of encouragement of legal compliance of the legislative body to follow up on the Constitutional Court Decision. Therefore, to increase the legal compliance of the legislature with the Constitutional Court Decision, the constitutional judicial process should be transparent. Additionally, each substance of the Constitutional Court's decision should not be too far apart to reduce the volume of decisions that are inconsistent with each other.

REFERENCES

Ahmad, A., & Nggilu, N. M. (2020). Denyut Nadi Amandemen Kelima UUD 1945 melalui Pelibatan Mahkamah Konstitusi sebagai Prinsip the Guardian of the Constitution. *Jurnal Konstitusi*, *16*(4), 785. https://doi.org/10.31078/jk1646

Akmal, D. U., Muin, F., & Karsa, P. L. (2020). Prospect of Judicial Preview in the Constitutional Court Based on the Construction of Constitutional Law. *Jurnal Cita Hukum*, *8*(3), 609–626. https://doi.org/10.15408/jch.v8i3.16940

Alex Caroll. (2007). *Constitutional and Administrative Law*. Pearson Longman.

Ali, A. (2017). *Ali, A. (2017). Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang-Undang (legisprudence): Volume I Pemahaman Awal* (vii). Kencana.

Ali, M. (2016). Mahkamah Konstitusi dan Penafsiran Hukum yang Progresif. *Jurnal Konstitusi*, *7*(1), 067. https://doi.org/10.31078/jk715

Asshiddiqie, J. (2014). *Konstitusi & Konstitusionalisme Indonesia*. Sinar Grafika.

Asshiddiqie, J. (2015). *Pengantar Ilmu Hukum Tata Negara* (viii). PT. Raja Grafindo Persada.

Barber, S. A., & Fleming, J. E. (2007). *Constitutional Interpretation: The Basic Question*. Oxford University Press.

Barnett's, H. (2013). *Constitutional & Administrative Law*. Routledge.

Bauman, R. W., & Kahana, T. (2006). *The Least Examined Branch: The Role of Legislatures in the Constitutional State*. Cambridge University Press. https://doi.org/https://doi.org/10.1017/CBO9780511511035

Boella, G., Governatori, G., Rotolo, A., & Torre, L. van der. (2009). Lex Minus Dixit Quam Voluit, Lex Magis Dixit Quam Voluit: A Formal Study on Legal Compliance and Interpretation. In *International Workshop on AI Approaches to the Complexity of Legal Systems* (pp. 162–183). Springer Berlin Heidelberg. https://link.springer.com/chapter/10.1007/978-3-642-16524-5_11

Chinhengo, A. M. (2000). *Essential Jurisprudence* (ii). Cavendish Publishing Limited.

Daniele Susilo dan Mohammad Roesli. (2018). Konsepsi Kekuasaan Legislasi Presiden Dalam UUD 1945. *MIMBAR YUSTITIA Vol.*, *2*(2), 159–173. http://www.e-jurnal.unisda.ac.id/index.php/mimbar/article/view/1383/884

Darmadi, N. S. (2011). KEDUDUKAN DAN WEWENANG MAHKAMAH KONSTITUSI DALAM SISTEM HUKUM KETATANEGARAAN INDONESIA. *Jurnal Hukum*, *28*(2), 1088–1108. http://cyber.unissula.ac.id/journal/dosen/publikasi/210603031/96378.pdf

Djatmiko, W. P. (2018). PARADIGMA PEMBANGUNAN HUKUM NASIONAL YANG RESPONSIF DALAM PERSPEKTIF TEORI J.H.MERRYMAN TENTANG STRATEGI PEMBANGUNAN HUKUM. *Arena Hukum*, *11*(22), 415–433. https://doi.org/https://doi.org/10.21776/ub.arenahukum.2018.01002.10

DPHN, P. P. (2019). *Dokumen Rencana Pembangunan Hukum Nasional : Kajian Awal Grand Desain Pembangunan Hukum Nasional* (1st ed.). BPHN KEMENKUMHAM.

Ducat, C. R. (2009). *Constitutional Interpretation* (9th ed.). Wadsworth, Cengage Learning.

Erwin Chemerinsky. (2015). *Constitutional Law: Principles and Policies*. Wolters Kluwer.

ETIENNE, J. (2011). Compliance Theory: A Goal Framing Approach. *Law & Policy*, *33*(3), 305–333. https://doi.org/https://doi.org/10.1111/j.1467-9930.2011.00340.x

fahmi ramadhan firdaus. (2020). PENCEGAHAN KORUPSI LEGISLASI MELALUI PENGUATAN PARTISIPASI PUBLIK DALAM PROSES PEMBENTUKAN UNDANG-UNDANG Fahmi. *Jurnal LEGISLASI INDONESIA*, *17*(3), 282–293. https://doi.org/https://doi.org/10.54629/jli.v17i3.679

Faiz, P. M. (2016). The Protection of Civil and Political Rights by the Constitutional Court of

Indonesia. " *Indonesia Law Review*, *6*(2), 159–179. https://doi.org/- August 2016 INDONESIA Law Review

Fajarwati, M. (2017). Tindak Lanjut Putusan Mahkamah Konstitusi Dalam Program Legislasi Nasional. *Kajian*, *11*(3), 195–204. https://jurnal.dpr.go.id/index.php/kajian/article/view/1512

Fathorrahman, F. (2021). Pengaturan Dan Implikasi Pengujian Formil Undang-Undang Di Mahkamah Konstitusi. *HUKMY : Jurnal Hukum*, *1*(2), 133–148. https://doi.org/10.35316/hukmy.2021.v1i2.133-148

Fuller, L. L. (1964). *The Morality of Law*. Yale University Press.

Hajiji, M. (2013). Relasi Hukum Dan Politik Dalam Sistem Hukum Indonesia. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, *2*(3), 361. https://doi.org/10.33331/rechtsvinding.v2i3.65

Hakim, M. L., & Rasji. (2018). Penerapan Asas Erga Omnes Dalam Putusan Mahkamah Negative Legislator. *Jurnal Hukum Adigama*, *1*(2), 2018.

Halim, A. (2014). Analisis Kebijakan Pembangunan Hukum Nasional Berdasarkan UU No. 25 Tahun 2004 Tentang Sistem Perencanaan Pembangunan Nasional. *Al-Mazaahib: Jurnal Perbandingan Hukum*, *2*(2), 240–258. https://doi.org/https://doi.org/10.14421/al-mazaahib.v2i2.1368

Harel, A., & Shinar, A. (2012). Between judicial and legislative supremacy: A cautious defense of constrained judicial review. *International Journal of Constitutional Law*, *10*(4), 950–975. https://doi.org/10.1093/icon/mos014

Hart, H. L. A. (2012). *The Concept of Law*. Oxford University Press.

Hastututi, P. (2016). Studi Kritis Pasal 51 Ayat (1) UU Nomor 24 Tahun 2003 Juncto UU Nomor 8 Tahun 2011 tentang Mahkamah Konstitusi terhadap Perlindungan Hak Warga Negara Asing di Indonesia. *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, *5*(2), 197–224. https://doi.org/https://doi.org/10.14421/sh.v5i2.2014

Heriyanto; Gulo, Farius; Ubaidillah, R. Y. M. M. (2021). Prinsip Kepastian Hukum Dalam Judicial Review Undang-Undang Fidusia Terkait Kesamaan Kedudukan Sertifikat Fidusia Dan Putusan Pengadilan. *Surya Kencana*, *8*, 248–264.

cf, T. (2019). The republican core of the case for judicial Review. *International Journal of Constitutional Law*, *17*(1), 288–316. https://doi.org/10.1093/icon/moz007

Huda, N. (2020). Problematika Pengaturan Tindak Lanjut Putusan Mahkamah Konstitusi Dalam Perkara Pidana Oleh Mahkamah Agung. *Jurnal Hukum Ius Quia Iustum*, *27*(3), 437–457. https://doi.org/10.20885/iustum.vol27.iss3.art1

Husen, L. ode, & Thamrin, H. (2017). *Hukum Konstitusi: kesepakatan (Agreement) dan Kebiasaan (Custom) Sebagai Pilar Konvensi Ketatanegaraan.* Social Politic Genius (SIGn).

Indonesia, M. K. R. (2010). *Naskah Komprehensif Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Latar Belakang, Proses, Dan Hasil Pembahasan 1999-2002 : Buku VIII Warga Negara Dan Penduduk, Hak Asasi Manusia, Dan Agama* (1st ed.). Sekretariat Jenderal Dan Kepaniteraan Mahkamah Konstitusi.

Indonesia, M. K. R. (2015). *Sejarah Constitutional Review dan Gagasan Pembentukan Mahkamah Konstitusi*. https://www.mkri.id/index.php?page=web.Berita&id=11766

Indonesia, M. K. R. (2019). *Putusan Landmark Mahkamah Konstitusi 2017-2018*. Kepaniteraan dan Sekretariat Jenderal Mahkamah Konstitusi.

Irawati, C. (2004). *Analisis Yuridis Kewenangan Mahkamah Konstitusi Dalam Melakukan Judicial Review Terhadap Produk Undang-Undang Sebelum Amandemen Uud 1945*

[Universitas Muhammadiyah Malang]. http://eprints.umm.ac.id/19842/

Isra, S. (2015). Titik Singgung Wewenang Mahkamah Agung Dengan Mahkamah Konstitusi. *Jurnal Hukum Dan Peradilan*, *4*(1), 17. https://doi.org/10.25216/jhp.4.1.2015.17-30

Isra, S. (2016). Peran Mahkamah Konstitusi dalam Penguatan Hak Asasi Manusia Di Indonesia. *Jurnal Konstitusi*, *11*(3), 409. https://doi.org/10.31078/jk1131

Isra, S. (2020). *Lembaga Negara: Konsep, Sejarah, dan Dinamika Konstitusional*. PT. Raja Grafindo Persada.

Jaelani, A. K., IGAKR, H., & Karjoko, L. (2019). EXECUTABILITY OF THE CONSTITUTIONAL COURT DECISION REGARDING GRACE PERIOD IN THE FORMULATION OF LEGISLATION. *International Journal of Advanced Science and Technology*, *28*(15), 816–823. http://sersc.org/journals/index.php/IJAST/article/view/2162

Jasir, A. (2020). Dewan Perwakilan Daerah Lembaga Legislatif Tanpa Legislasi. *Khazanah Hukum*, *2*(1), 1–9. https://doi.org/10.15575/kh.v2i1.7675

Kosasih, A. (2016). Hubungan Kewenangan Antara Dpd Dan Dpr Menurut UUD NRI Tahun 1945. *Mizani*, *26*(2), 133–142.

Krehbiel, J. N. (2016). The Politics of Judicial Procedures: The Role of Public Oral Hearings in the German Constitutional Court. *American Journal of Political Science*, *60*(4), 990–1005. https://doi.org/https://doi.org/10.1111/ajps.12229

Kusuma, D. P. (2017). Pengawasan Terhadap Fungsi Legislasi DPR RI Berdasarkan Peraturan Perundang-Undangan. *Jurnal An-Nahdhah*, *1*(1), 1–28. https://staimaarifjambi.ac.id/jurnal/index.php/Al-Ashlah/article/view/4

Luis, R. F., & de Fatima, J. F. (2020). THE IDEA OF FORMING THE CONSTITUTIONAL COURT. *Academic Research International*, *11*(1), 47-57.

Lumbuun, T. G. (2009). Tindak Lanjut Putusan Mahkamah Konstitusi Oleh DPR RI. *Legislasi Indonesia*, *6*(3), 77–94.

Mahfud, M. (2013). *Politik Hukum di Indonesia*. PT. Raja Grafindo Persada.

Mahrus Ali, M., & Rahmawaty Hilipito dan Syukri Asy, M. (2015). Tindak Lanjut Putusan Mahkamah Konstitusi yang Bersifat Konstitusional Bersyarat Serta Memuat Norma Baru (The Implementation of Constitutional Court Verdict on Conditionally Constitutional and New Legal Norm). *Jurnal Konstitusi, 12*(3), 637.

Mantara Sukma, G. G. (2020). Open Legal Policy Peraturan Perundang-undangan Bidang Politik Dalam Putusan Mahkamah Konstitusi (Studi terhadap Putusan MK Bidang Politik Tahun 2015-2017). *Jurnal Lex Renaissance*, *5*(1), 1–19. https://doi.org/10.20885/jlr.vol5.iss1.art1

Marwan, Ali. (2022). Problematika Pengujian Formil Undang-Undang. *Grondwet*, *1*(1), 13–22. https://ejournal.grondwet.id/index.php/gr/article/view/2

Mary Hawkesworth, M. K. (2002). *Encyclopedia Of Government and Politics: Vol. I.* Routledge.

Maulidi, M. A. (2017). Problematika Hukum Implementasi Putusan Final Dan Mengikat Mahkamah Konstitusi Perspektif Negara Hukum. *Jurnal Hukum Ius Quia Iustum*, *24*(4), 535–557. https://doi.org/10.20885/iustum.vol24.iss4.art2

McAdams, R. H., & Nadler, J. (2008). Coordinating in the shadow of the law: Two contextualized tests of the focal point theory of legal compliance. *Law and Society Review*, *42*(4), 865–898. https://doi.org/10.1111/j.1540-5893.2008.00361.x

MPR. (2016). *Panduan Pemasyarakatan Undang-Undang Dasar Negara Republik Inonesia tahun 1945 dan Ketetapan Majelis Permusyawaratan Rakyat Republik Indonesia*. Sekretariat Jenderal MPR RI.

Murphy, L. (2014). *What Makes Law: An Introduction to the Philosophy of Law*. Cambridge University Press.

Nagin, D. S., & Telep, C. W. (2020). Procedural justice and legal compliance: A revisionist perspective. *Criminology and Public Policy*, *19*(3), 761–786. https://doi.org/10.1111/1745-9133.12499

Nonet, P., Selznick, P., & Kagan, R. A. (2017). *Toward ResponsiveLaw: Law & Society in Transition*. Routledge.

Norton, P. (2020). *Parliament and the courts: Strangers, foes or friends?* Manchester University Press.

Nugroho, F. B. S. (2019). Sifat Keberlakuan Asas Erga Omnes Dan Implementasi Putusan Mahkamah Konstitusi. *Gorontalo Law Review*, *2*(2), 95. https://doi.org/10.32662/golrev.v2i2.739

Nurhidayatuloh, N. (2016). Dilema Pengujian Undang-Undang Ratifikasi oleh Mahkamah Konstitusi dalam Konteks Ketetanegaraan RI. *Jurnal Konstitusi*, *9*(1), 113. https://doi.org/10.31078/jk915

Perwira, I. (2016). Refleksi Fenomena Judicialization of Politics pada Politik Hukum Pembentukan Mahkamah Konstitusi dan Putusan Mahkamah Konstitusi. *Jurnal Konstitusi*, *13*(1), 25. https://doi.org/10.31078/jk1312

Purawan, A. A. (2014). Korupsi Legislasi Dalam Pembentukan Peraturan Perundang-Undangan. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, *3*(3), 347. https://doi.org/10.33331/rechtsvinding.v3i3.30

Putra, A. (2018). Dualisme Pengujian Peraturan Perundang-Undangan. *Legislasi Indonesia*, *15*(2), 69–79.

Rahardjo, S. (2014). *Ilmu Hukum* (Awaludin Marwan (ed.); 8th ed.). PT. Citra Aditya Bakti.

Rakia, A. S. R. S. (2021a). Perkembangan dan Urgensi Instrumen Hukum Administrasi Pasca Penetapan Undang-Undang Nomor 2 Tahun 2020 pada Masa Pandemi Covid-19. *SIGn Jurnal Hukum*, *2*(2), 157–173. https://doi.org/10.37276/sjh.v2i2.106

Rakia, A. S. R. S. (2021b). *Perundang-Undangan Indonesia: Kajian Mengenai Ilmu dan Teori Perundang-Undangan serta Pembentukannya* (i). Social Politic Genius (SIGn).

Rakia, A. S. R. S. (2021c). Simplifikasi Terhadap Peraturan-Peraturan Pelaksanaan yang Dibentuk oleh Presiden dalam Sistem Ketatanegaraan Republik Indonesia. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, *10*(249–262). https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v10i2.720

Rasaili, W. (2015). Kinerja DPR dan Kepercayaan Publik:(Analisis Kepercayaan Publik Terhadap Kinerja DPR RI Tahun 2014-2019). *PUBLIC CORNER*, *10*(2), 1–14. https://doi.org/https://doi.org/10.24929/fisip.v8i2.221

Ratnaningsih, E. (2016). Perubahan Paradigma Pembangunan Hukum Nasional Pasca Amandemen Konstitusi. *PALAR (Pakuan Law Review)*, *4*(1), 49–74. https://doi.org/10.33751/palar.v4i1.783

Rishan, I. (2021). Konsep Pengujian Formil Undang- Undang di Mahkamah Konstitusi The Concept of Judicial Review of the Legislative Process in. *Jurnal Konstitusi*, *18*, 1–21. https://jurnalkonstitusi.mkri.id/index.php/jk/article/view/1811/pdf

Rubaie, A. (2017). *Putusan Ultra Petita Mahkamah Konstitusi (Persfektif Filosofis, Teoritis, dan Yuridis)*. Laksbang Pressindo.

Satriawan, I., & Lailam, T. (2019). Open Legal Policy dalam Putusan Mahkamah Konstitusi dan Pembentukan Undang-Undang. *Jurnal Konstitusi*, *16*(3), 559. https://doi.org/10.31078/jk1636

Siregar, A. R. M. (2018). KEWENANGAN MAHKAMAH KONSTITUSI DALAM PENGUJIAN UNDANG-UNDANG TERHADAP UNDANG-UNDANG DASAR TAHUN 1945. *Jurnal Hukum Responsif*, *5*(5), 100–108. https://jurnal.pancabudi.ac.id/index.php/hukumresponsif/article/view/166

Soemantri, S. (1997). *Hak Uji Materil di Indonesia*. Alumni.

Sulistyowati, T. (2006). Putusan Mahkamah Konstitusi Dalam Judicial Review dan Beberapa Permasalahannya. *Jurnal Hukum PRIORIS*, *1*(1), 10–25. https://doi.org/10.25105/prio.v1i1.309

Sumadi, A. F. (2016). Hukum Acara Mahkamah Konstitusi dalam Teori dan Praktik. *Jurnal Konstitusi*, *8*(6), 849. https://doi.org/10.31078/jk861

Sumodiningrat, A. (2021). Meninjau Ulang Paradigma Pengujian Formil oleh MK: Belajar dari Diskursus Pengujian terhadap Independensi KPK. *Jurnal Kajian Konstitusi*, *1*(111–139). https://doi.org/https://doi.org/10.19184/jkk.v1i1.24455

Sutiyoso, B. (2016). Pembentukan Mahkamah Konstitusi Sebagai Pelaku Kekuasaan Kehakiman di Indonesia. *Jurnal Konstitusi*, *7*(6), 025. https://doi.org/10.31078/jk762

Walen, A. (2009). Judicial review in review: A four-part defense of legal constitutionalism A review essay on Political Constitutionalism. *International Journal of Constitutional Law*, *7*(2), 329–354. https://doi.org/10.1093/icon/mop007

Wallis, J. (2016). How important is participatory constitution-making? Lessons from Timor-Leste and Bougainville. *Commonwealth & Comparative Politics*, *54*(3), 362-386. https://doi.org/10.1080/14662043.2016.1185245

Wicaksono, I., & Nugroho, R. M. (2021). Tinjauan Yuridis Pembentukan Peraturan Perundang-Undangan Sebagai Tindak Lanjut Atas Putusan Pengujian Undang-Undang Oleh Mahkamah Konstitusi. *Ahmad Dahlan Legal Perspective*, *1*(1), 67–89. https://doi.org/10.12928/adlp.v1i1.4092

Widiastuti, R., & Wibowo, A. I. (2022). Pola Pembuktian dalam Putusan Pengujian Formil Undang-Undang di Mahkamah Konstitusi. *Jurnal Konstitusi*, *18*(4), 803. https://doi.org/10.31078/jk1844

Yorisca, Y. (2020). Pembangunan Hukum Yang Berkelanjutan: Langkah Penjaminan Hukum Dalam Mencapai Pembangunan Nasional Yang Berkelanjutan. *Jurnal Legislasi Indonesia*, *17*(1), 98–111. https://doi.org/https://doi.org/10.54629/jli.v17i1.507