



ISSN Print 2615-5648
ISSN Online 2615-174X

Editorial Office: Faculty of Sharia, Universitas Islam Negeri Profesor Kiai Haji Saifuddin Zuhri Purwokerto, Indonesia, Jalan Jend. A. Yani No. 40 A Purwokerto Jawa Tengah 531226 Indonesia
Phone: +62281-635624 Fax: +62281- 636653
E-mail: volksgeist@uinsaizu.ac.id
Website: <http://ejournal.uinsaizu.ac.id/index.php/volksgeist>

The Urgency of Establishing Constitutional Court Procedural Law

Article	Abstract
<p>Author Sugeng Riyadi^{1*}, Muhammad Fauzan^{2*}, Idamatussilmi³, Asep Budiman⁴.</p> <p>^{1,2} Faculty of Law, Universitas Jenderal Soedirman, Indonesia ³ Universitas Islam Negeri Profesor Kiai Haji Saifuddin Zuhri Purwokerto, Indonesia ⁴ Hunan Normal University, China</p> <p>Corresponding Author: *Sugeng Riyadi, <i>Email:</i> sugeng.riyadi@mhs.unsoed.ac.id</p> <p>Data: Received: Sept 30, 2023; Accepted: Des 22, 2023; Published: Des 27, 2023.</p> <p>DOI: 10.24090/volksgeist.v6i2.9607</p>	<p>The formulation of procedural law within the constitutional court is a crucial requirement, as stipulated by Article 24 C paragraph (6) of the 1945 Constitution of the Republic of Indonesia. While the Constitutional Court Procedural Law is outlined in Law No. 24 of 2003 on the Constitutional Court, it merely provides general points. Special aspects, aligned with individual case characteristics, are deferred to the Constitutional Court for independent regulation based on Article 86 and the Explanatory Note to Law No. 24 of 2003. However, this delegation is inappropriate as procedural law should be governed by Law-level regulations, not by Constitutional Court Regulations (PMK). To date, the Constitutional Court continues to produce the Procedural Law in the form of PMKs. This study employs a normative juridical research method, with a statutory and conceptual approach, and conducts analysis in a qualitative descriptive manner. This paper concludes, firstly, that the creation of procedural law within the constitutional court holds philosophical, juridical and sociological significance. Secondly, the drafting process of the constitutional court's procedural law must adhere to the process of forming sound laws and regulations and contain materials in line with their level as prescribed in the legislation.</p> <p>Keywords: Procedural Law; Constitutional Court Regulations; Constitutional Court.</p>

©2023; This is an Open Access Research distributed under the term of the Creative Commons Attribution Licencee (<https://creativecommons.org/licenses/by/4.0>), which permits unrestricted use, distribution, and reproduction in any medium, provided the original works is properly cited.

INTRODUCTION

The Constitutional Court, as one of the key components of judicial power under Article 24 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, plays a myriad of roles. It acts as a custodian of the constitution, a defender of democracy, a protector of human rights, the ultimate interpreter of the constitution, a safeguard of citizens' constitutional rights, and a guardian of the state's ideology. The Court was instituted on August 13, 2003, as mandated by Law No. 24 of 2004 under the 1945 Constitution of the Republic of Indonesia. According to Article 24 C Paragraph (1) and Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, the Court is empowered to evaluate laws against the Constitution, resolve disputes regarding the power of State

Institutions granted by the Constitution, decide on the dissolution of political parties, settle disputes over election outcomes, and provide rulings on the House of Representatives' opinion concerning alleged legal violations by the President and/or Vice President. Moreover, the Court's role has expanded over time to adjudicate disputes over regional head election (pemilukada) results, which has now become a permanent authority as per Constitutional Court Decision Number 85/PUU-XX/2022.

In line with Article 24 C Paragraph (6) of the 1945 Constitution of the Republic of Indonesia, the Procedural Law of the Constitutional Court is governed by law. This is stipulated in Law No. 24 of 2003 on the Constitutional Court which outlines the Constitutional Court Procedural Law in Chapter V, spanning from Article 28 to Article 85. However, some aspects of the Constitutional Court Procedural Law have been revised by Law No. 8 of 2011 and Law No. 7 of 2020 to better reflect the evolving legal needs of the society and constitutional life.

The Constitutional Court Procedural Law, as encapsulated in Law No. 24 of 2003 and its subsequent amendments, provides the general rules. However, specific rules that cater to the unique characteristics of each case fall within the purview of the Constitutional Court to regulate.¹ The Constitutional Court has issued Regulations to detail procedural law that is still of a general nature. The Constitutional Court has thus issued several regulations to elaborate the procedural law that remains generally defined. These regulations have seen dynamic changes, with some being repealed and others revised to meet the legal needs of the community. The following are some of the Constitutional Court Regulations (PMKs) that are currently in effect and contain procedural law:

1. PMK Number 4 of 2023: Procedures for Disputes over Presidential and Vice-Presidential Election Results.
2. PMK Number 3 of 2023: Procedures for Disputes over the Results of Regional Representative Council Elections.
3. PMK Number 2 of 2023: Procedures for Disputes over the Results of the Election of Members of the People's Representative Council and Regional People's Representative Council.
4. PMK Association Number 6, 7, and 8 of 2020: Handling Disputes over the Results of the Governor, Regent, and Mayor Elections.
5. PMK Number 02/PMK/2021: Procedures in Legal Test Cases.
6. PMK Number 08/PMK/2006: Procedural Guidelines in Disputes over the Constitutional Authority of State Institutions.
7. PMK Number 12 of 2008: Procedural Procedures in Dissolving Political Parties.
8. Other PMKs.

While the existing Constitutional Court Regulations (PMKs) have been sufficient in addressing the legal vacuum so far, they should ideally serve as temporary measures. It is essential that these PMKs be promptly replaced by laws, as procedural law needs to be regulated at the level of law. The Constitutional Court's Procedural Law, as currently outlined in the form of PMKs, lacks legitimacy as it is self-made and not created by an institution elected by the people. Furthermore, it fails to

¹ Refer to Article 86 of Law Number 24 of 2003 on Constitutional Court and Explanatory Note to Law Number 24 of 2003.

guarantee legal certainty as the Constitutional Court can take unilateral actions at any time. The establishment of the Constitutional Court Procedural Law at the level of law is of utmost importance, given that the Constitutional Court is a key player in the judicial power structure, playing a crucial role in upholding the constitution. The principle of rule of law demands a legitimate procedural law and legal certainty.

Even so, it is worth noting that the Constitutional Court is empowered by **Article 86** of Law Number 24 of 2003 on the Constitutional Court to further regulate matters necessary for the smooth implementation of its duties and authorities, which includes the Constitutional Court Regulations.

The Constitutional Court's regulations are a distinct set of laws and rules, separate from those outlined within the legal hierarchy as stated in Article 7 paragraph (1) of Law Number 12 of 2011. These regulations include various types of laws and rules, acknowledged for their validity and legally binding as long as they are mandated by superior laws or established by authority. Historically, the procedural law of the Constitutional Court has been governed by the Constitutional Court Law (MK Law), with specifics outlined in the Constitutional Court Regulation (PMK). Over time, the Court's procedural law has evolved in response to trial practices and the Court's rulings, leading to the issuance of PMKs that encapsulate the Procedural Law.

This evolution primarily serves to safeguard constitutional rights for citizens. The procedural law acts as a conduit for litigants, guiding them towards the justice they seek. Without a procedural law that ensures equitable legal certainty, the enforcement of substantive law becomes an impossibility. Given that the current Constitutional Court Procedural Law is rather broad and lacks detailed legislation, the existence of PMKs that provide further details of the Procedural Law, tailored to the nature of the dispute, is a justified temporary solution to this legal void. Nonetheless, the permanent Constitutional Court Procedural Law must still be formalized through legislation. Once the Constitutional Court Procedural Law is legally established, all Constitutional Court Regulations pertaining to procedural law must be rescinded. The formulation of a comprehensive law to regulate procedural law is of utmost importance, considering the Constitutional Court's pivotal role in upholding the constitution and the principle of rule of law. This paper sets out to explore the urgent need for the establishment of the Constitutional Court Procedural Law and discuss the steps towards creating an effective Constitutional Court Procedural Law.

RESEARCH METHODOLOGY

This study employs a normative juridical research methodology that prioritizes the analysis of laws, regulations, and other legal products, while still taking into account the realities and circumstances within the community that are directly related to the issues under discussion.² There are three approach methodologies in this research: (1) Statutory Approach, which is used to analyze laws and regulations;³ (2) Conceptual approach, which is employed to draft the design of an optimal Constitutional Court procedural law in line with the Indonesian legal system; and (3) Comparative Approach, which serves as a reference point for enriching the design of the Constitutional Court's procedural law, drawing on practices from various countries. The primary legal material for this

² Diah Puji Lestari, "Analisis Yuridis Normatif Pemberian Kompensasi Perjanjian Kerja Waktu Tertentu (PKWT) Berdasarkan Undang-Undang Cipta Kerja," *Jurnal Hukum Lex Generalis* 3, no. 5 (2022), <https://doi.org/https://doi.org/10.56370/jhlg.v3i5.160>.

³ Mahmud Peter Marzuki, *Penelitian Hukum: Edisi Revisi*, Revisi (Jakarta: Kencana Prenada Media Grup, 2017).

study is derived from regulations currently applied within the Indonesian legal system, and the secondary legal material is sourced from a variety of literature that delves into state policies. Data analysis is conducted using qualitative analysis techniques. The research aims to uncover the philosophical, juridical and sociological urgency of establishing a sound Constitutional Court Law and to reveal the foundational principles behind forming an ideal Constitutional Court Procedural Law that aligns with Indonesia as a nation of law and democracy.⁴

ANALYSIS AND DISCUSSION

The Imperative Philosophy Behind Instituting Constitutional Court Procedural Law

This study will delve into the ideological basis of Pancasila - the state philosophy of Indonesia, and its correlation with the pressing need to establish a comprehensive procedural law.⁵ In the philosophical context, the creation of a Constitutional Court Procedural Law serves as a cornerstone for the society to seek justice through the Constitutional Court, thus fostering a just and prosperous society in line with the nation's aspirations. So far, the procedural law has been provisioned within the Constitutional Court Law, albeit merely covering the primary components, whereas the specifics are further regulated by the Constitutional Court Regulations, rendering them less authoritative. The existence of individual PMKs that regulate their respective procedural laws according to the subject of the dispute, has led to considerable confusion among various stakeholders. The procedural law governed in the form of PMK, is extremely dynamic due to its frequent amendments, making the existing law not only less legitimate but also fragmented, thereby posing challenges for the community. Therefore, the enactment of the Constitutional Court Procedural Law and its codification should be implemented for all types of disputes, considering the uniqueness of each case, from the jurisdiction of the Constitutional Court, legal standing, filing, examination, to the final decision. The codification process will enhance the broader community's understanding, including the litigants, on the Constitutional Court Procedural Law.

One of the outcomes of the amendments made to the 1945 Constitution of the Republic of Indonesia was the inception of a novel state institution - the Constitutional Court (MK).⁶ The primary motivation behind this establishment was to ensure that the Constitutional Court was not merely a written directive, but was thoroughly executed and upheld in reality.⁷ This is due to the fact that the constitution, being a supreme law, governs the administration and serves a crucial role in safeguarding human rights.⁸

Parallel to the rationale that led to the creation of the Constitutional Court, a significant reason for amending the 1945 Constitution was to recognize and uphold human rights, which were then

⁴ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: Sinar Grafika, 2004).

⁵ Jimly Asshiddiqie, *Perihal Undang-Undang Di Indonesia* (Jakarta: Konstitusi Press, 2006).

⁶ Maruarar Siahaan, *Hukum Acara Mahkamah Konstitusi Republik Indonesia* (Jakarta: Sinar Grafika, 2012), 8.

⁷ Another reason for the establishment of the Constitutional Court was to provide protection for the constitutional rights of citizens and as a consequence of the realization of a democratic state. See I Dewa Gede Palguna, *Constitutional Complaint: Legal Remedies Against Violations of Citizens' Constitutional Rights* (Jakarta: Sinar Grafika, 2013), p 3.

⁸ Faiz Rahman and Agung Wicaksono, "Eksistensi Dan Karakteristik Putusan Bersyarat Mahkamah Konstitusi," *Jurnal Konstitusi* 13, no. 2 (2016): 348–78, <https://doi.org/10.31078/jk1326>.

incorporated as part of the citizens' constitutional rights.⁹ Hence, the Constitutional Court not only acts as the custodian of the constitution (The Guardian of the Constitution), but also as the defender of citizens' constitutional rights (The protector of the Citizens' Constitutional Right).¹⁰

Pursuant to Article 24C paragraph (1) of the 1945 Constitution¹¹ in conjunction with Article 10 of the Constitutional Court Law,¹² the Constitutional Court has been mandated to safeguard citizens' constitutional rights by conducting judicial review of the Constitution.¹³ This mandate serves as an embodiment of checks and balances mechanism among the different branches of state power,¹⁴ with particular emphasis on the legislative power branch, which possesses the authority to enact laws.¹⁵ The Constitutional Court's power to undertake constitutional review is primarily aimed at ensuring the protection of human rights and constitutional rights of citizens as enshrined in the 1945 Constitution, thereby preventing any potential infringement by legal provisions.¹⁶

As its core, the Constitutional Court was instituted with the intent of verifying the congruity between lower and higher legal norms. The consolidation of the authority to scrutinize laws and regulations within a single judicial body, the Constitutional Court, is a pressing constitutional necessity aimed at ensuring legal certainty and justice. This is a direct consequence of the adoption of the hierarchical theory of legal norms prevalent in the Indonesian legal system. Essentially, the classification and hierarchy of Indonesian laws and regulations adhere to a unified value system in line with the theory of legal norms, specifically the 'Stufenbau de Recht' or the 'hierarchy of law theory' propounded by Hans Kelsen. This implies a value unity across different types and hierarchies of laws and regulations, culminating in their highest value referred to as "Grundnorm" (as per Hans Kelsen), 'Staats Fundamental Norm' (as per Hans Nawiaski), or 'Pancasila' in the Indonesian context.¹⁷

Besides being recognized as a legal ideal, the 1945 Constitution of the Republic of Indonesia's Preamble is also referred to as the '*grundnorm*,' '*staats fundamental norm*,' or the 'State's

⁹ Herma Yanti, "Gagasan Constitutional Complaint Sebagai Kewenangan Baru Mahkamah Konstitusi Dalam Perlindungan Hak Konstitusional," *Wajah Hukum* 2, no. 2 (November 2018): 185, <https://doi.org/10.33087/wjh.v2i2.40>.

¹⁰ Supriardoyo Simanjuntak, Ridho Alfaiz, and Melisa Ambarita, "Urgensi Perluasan Kewenangan MK Terhadap Constitutional Question Dan Constitutional Complaint Sebagai Wujud Perlindungan Hak Konstitusional Warga Negara," *Jurnal Legislatif* 4, no. 2 (2021): 297–304, <https://doi.org/https://doi.org/10.20956/jl.vi.14605>.

¹¹ Refer to Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the Constitutional Court has the authority to adjudicate at the first and final level whose decisions are final to test laws against the Constitution,

¹² Refer to Article 10 paragraph (1) of Law Number 24 of 2003 on Constitutional Court, the Constitutional Court has the authority to adjudicate at the first and final level whose decisions are final for: a. testing laws against the 1945 Constitution of the Republic of Indonesia, b....

¹³ Aswanto and Wilma Silalahi, *Perlindungan Penghormatan Dan Pemenuhan Hak Asasi Manusia Domestik Dan Internasional*, Cetakan 1 (Depok: Rajawali Pers, 2021), 139.

¹⁴ Aswanto and Silalahi, *Perlindungan Penghormatan Dan Pemenuhan Hak Asasi Manusia Domestik Dan Internasional*.

¹⁵ Abdul Latif, *Fungsi Mahkamah Konstitusi Dalam Upaya Mewujudkan Negara Hukum Demokrasi*, (Yogyakarta: Kreasi Total Media, 2007).

¹⁶ Yance Arizona, Endra Wijaya, and Tanius Sebastian, *Pancasila Dalam Putusan Mahkamah Konstitusi (Kajian Terhadap Putusan Mahkamah Konstitusi Yang Berkaitan Dengan Perlindungan Kelompok Marjinal)* (Jakarta: Epistema Institute, 2014), 106.

¹⁷ Soeprapto and Maria Farida Indrati, *Ilmu Perundang-Undangan: Jenis, Fungsi dan Materi Muatan* (Yogyakarta: Kanisius, 2007).

fundamental principles,' as coined by Notonagoro.¹⁸ According to the principle of the rule of law, legal supremacy must prevail, ensuring legal certainty and justice.¹⁹

The Law on the Constitutional Court Procedural Law's establishment intends to provide a definitive foundation and guidelines for the procedural process in the Constitutional Court. This law is fully binding on both Constitutional Judges and litigants. The formation of this law can be accomplished through legal codification, which applies to the Constitutional Court Regulations that governs procedures, as well as the jurisprudence developed from Constitutional Court Decisions. This Procedural Law serves as a public law instrument (*publiekrechtelijk instrumentarium*) to enforce material law (*handhaving van het materiele recht*), specifically the material constitutional law (*materiele staatsrecht*).

The law governing this affair is known as '*formeel recht*' or 'procedural law'. Philosophically, the Constitutional Court's procedural law must exist in the form of law and not a Constitutional Court Regulation. This adherence ensures the preservation of checks and balances principle and aligns with the rule of law's spirit.

The creation of the Constitutional Court Procedural Law should be grounded in the national ideals outlined in the 1945 Constitution of the Republic of Indonesia's Preamble. The procedural law's establishment aims to provide a binding set of standards and guidelines for both judges and litigants in the Constitutional Court – this ensures legal certainty, a prerequisite for achieving a just and prosperous society as envisioned by the 1945 Constitution of the Republic of Indonesia. The Constitutional Court Procedural Law, spread across various Laws and PMK, should be consolidated into a single legal document for the ease of the involved parties. All basic content regulated in PMK and derived from jurisprudence must be incorporated into the Constitutional Court Procedural Law. Meanwhile, more technical rules can exist in the form of PMK.

According to Article 86 of Law No. 24 of 2003, it is stipulated that "The Constitutional Court holds the authority to further regulate indispensable matters for the effective execution of its responsibilities and powers as outlined in this Law". Article 86, however, does not explicitly delineate procedural law. Procedural law is distinctly specified in the Explanatory Note to Article 86, stating: "This stipulation aims to address potential deficiencies or gaps in the procedural law under this Law". The explanation of Article 86 in Law No. 24 of 2003, referencing procedural law, illustrates that explanations can engender norms. The norms generated by this explanation do not accord with legal norms. Interpreting Article 86 and its explanation, it becomes clear that the regulation of procedural law in the form of PMK serves as a temporary measure to fill a legal void. To establish a permanent procedural law, it must be legislated.

From this understanding, it is imperative to immediately cease the formation of the Constitutional Court's procedural law in the form of PMK. If this practice continues, it may lead to a crisis of trust. The Procedural Law, when formulated in the form of PMK, is not only illegitimate but also prone to misuse, as demonstrated by Akil Mochtar. Akil Mochtar exploited a loophole in the unregulated case distribution to existing panels, enabling him to allocate more cases to the panel of judges he led than to other panels.²⁰ Similarly, Constitutional Judge Patrialis Akbar manipulated a loophole concerning the ambiguity of rules related to the time limit for Judges' Consultative Meetings

¹⁸ Notonagoro, *Pancasila Dasar Falsafah Negara* (Jakarta: Pantjuran Tujuh, 1974).

¹⁹ Soimin, *Pembentukan Peraturan Perundang-Undangan Negara Di Indonesia* (Yogyakarta: UII-Press, 2010).

²⁰ Decision of Constitutional Court's Honor Assembly No.: 01/MKMK/X/2013 dated October 31, 2013.

to the reading of judgments, using this ambiguity to engage in legal trading by selling verdict information.²¹ This underscores the philosophical urgency of the creation of the Constitutional Court procedural law, which should be a product of the Legislative and the President. This ensures the preservation of the principle of checks and balances, in line with the spirit of the rule of law where legal constraints exist.

The Legal Imperative of Developing Constitutional Court Procedural Law

Indonesia is a state that upholds democratic legal principles, a fact that significantly influences its operations and governance.²² The progression of its legal framework is deeply rooted in the nation's ideology, Pancasila, which emphasizes justice and civilized humanity as its second principle. This principle ensures that everyone, including indigenous people, are entitled to just treatment and fulfillment of their human rights, notably their traditional rights. Recognizing indigenous peoples' rights as human rights necessitates not only respect and protection but also fulfillment of these rights. Given that human rights are basic and fundamental, their fulfillment becomes a vital duty.²³ The government, in this context, functions as the primary institution for law enforcement.²⁴ In theory, a country that adopts a written constitution inherently acknowledges it as the fundamental law, the highest legal authority in the nation, regardless of explicit affirmation in the constitution itself. As such, all state administration must align with and not contradict the constitution, as a written constitution is, by nature, an "enforceable law."²⁵

Shetreet S, & J. Deschenes have argued that the independence of the judiciary has long been recognized as essential yet not been sufficiently prioritized in practical terms.²⁶ The independence of judicial power is a fundamental principle, especially in legal-based countries.²⁷ Countries adhering to the Continental European legal system, or civil law system, primarily refer to codified (written) laws and regulations ratified by the state's authorized bodies or institutions.²⁸ According to Article 24C paragraphs (1) and (2) of the 1945 Constitution, the Constitutional Court holds the authority to examine laws against the 1945 Constitution, resolve disputes over the authority of state institutions, decide on political party dissolution, and resolve election result disputes. Moreover, the Constitutional Court must rule on suspicions of the President and/or Vice President committing legal violations, including treason, corruption, bribery, other serious crimes, or disgraceful acts.

²¹ Decision of Constitutional Court's Honor Assembly No.: 01 /MKMK-SPL/II/2017 dated February, 16 2017.

²² Hariyanto et al., "The Communal Democracy of Yogyakarta Special Region's Government on the Islamic Law Eclecticism Perspective," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 18, no. 1 (June 2023): 200–221, <https://doi.org/10.19105/al-lhkam.v18i1.7403>.

²³ Kartika Winkar Setya, Abdul Aziz Nasihuddin, and Izawati Wook, "Fulfilling Communal Rights through the Implementation of the Second Principle of Pancasila towards the Regulation on Agrarian Reform," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 1 (June 2023): 89, <https://doi.org/10.24090/volkgeist.v6i1.7867>.

²⁴ Abdul Kadir Jaelani et al., "Legal Protection of Employee Wage Rights in Bankrupt Companies: Evidence from China," *Legality : Jurnal Ilmiah Hukum* 31, no. 2 (August 2023): 212, <https://doi.org/10.22219/ljih.v31i2.25874>.

²⁵ I.D. G. Palgunaa and Bima Kumara Dwi Atmaja A, "'Originalism' of Interpretation in the United States Constitution," *Sriwijaya Law Review* 7, no. 2 (2023): 192, <https://doi.org/10.28946/slrev.Vol7.Iss2.2134.pp190-208>.

²⁶ Andi Suherman, "Implementasi Independensi Hakim Dalam Pelaksanaan Kekuasaan Kehakiman," *SIGN Jurnal Hukum* 1, no. 1 (September 2019): 42–51, <https://doi.org/10.37276/sjh.v1i1.29>.

²⁷ Muh Ridha Hakim, "Tafsir Independensi Kekuasaan Kehakiman Dalam Putusan Mahkamah Konstitusi / Interpretation Of Judicial Power Independence In Constitutional Court Decisions," *Jurnal Hukum Dan Peradilan* 7, no. 2 (July 2018): 279, <https://doi.org/10.25216/jhp.7.2.2018.279-296>.

²⁸ Suherman, "Implementasi Independensi Hakim Dalam Pelaksanaan Kekuasaan Kehakiman."

It must also rule disqualifications as President and/or Vice President, as stipulated in the 1945 Constitution.²⁹ This underlines the interconnectedness between the rule of law and the power of an independent judiciary, likening it to two sides of the same coin. Therefore, the independence of the court becomes a *conditio sine qua non*, as essential condition, for the existence of the rule of law.³⁰

For the realization of a just and thriving society as envisioned by the 1945 Constitution, the Constitutional Court, as a key judicial entity, necessitates a procedural law that is legitimate, systematic, harmonious, comprehensive and codified. The absence of such a law would render the Constitutional Court incapable of fulfilling its role as the custodian of the constitution, the safeguard of human rights, the defender of citizens' constitutional rights, and the protector of democracy.

Presently, it is observed that the extant Procedural Law of the Constitutional Court falls short of being legitimate, systematic, harmonious, and comprehensive, as revealed in various legal documents including Law No. 24 of 2003 on the Constitutional Court, as recently amended by Law No. 7 of 2020, Law No. 48 of 2009 on Judicial Power, Law No. 7 of 2017 on Elections, as amended by Law No. 7 of 2023, Law No. 42 of 2008 on Presidential Elections, Law No. 2 of 2008 and Law No. 2 of 2011 on Political Parties, Law No. 1 of 2015 and its amendments, as well as other legislative and jurisprudential rules. The Constitutional Court Procedural Law, as articulated in Law No. 24 of 2003 and its amendment by Law No. 8 of 2011 and Law No. 7 of 2020, encompasses the following:

1. General Provisions: Article 28
2. Application Subject Matter: Articles 29 - 31
3. Application Registration and Hearing Scheduling: Articles 32 - 35A
4. Evidentiary Matters: Articles 36 - 38
5. Preliminary Examination: Article 39
6. Preliminary Examination Subject matter: Articles 40 - 44
7. Judgment Subject Matter: Articles 45 - 49
8. Constitutional Statutory Examination: Articles 50 - 60
9. Disputes over the Authority of State Institutions Granted by the Constitution: Articles 61 - 67
10. Dissolution of Political Parties: Articles 68 - 73
11. Disputes over General Election Results: Articles 74 - 79
12. The House of Representatives' Opinion on Alleged Violations by the President and/or Vice President: Articles 80 - 85.

These stipulations, while currently broad and non-specific, require further refinement based on the specifics of each case. Currently, such specifications are outlined in the form of PMKs.

²⁹ Rico Yodi Tri Utama and Retno Saraswati, "Independensi Dan Urgensi Restrukturisasi Sistem Peradilan Pidana Indonesia Berdasarkan Aspek Kekuasaan Kehakiman," *Ajudikasi : Jurnal Ilmu Hukum* 5, no. 1 (June 2021): 53–70, <https://doi.org/10.30656/ajudikasi.v5i1.2740>; Refers to; Saiful Risky, Sholahuddin Al-Fatih, and Mabarroh Azizah, "Political Configuration of Electoral System Law in Indonesia from State Administration Perspective," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 1 (2023), <https://doi.org/https://doi.org/10.24090/volkgeist.v6i1.7940>.

³⁰ Muh Risnain, "Konsep Peningkatan Kuantitas Dan Kualitas Program Legislasi Nasional: Rekomendasi Konseptual Dan Kebijakan Pada Prolegnas 2015-2019," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 4, no. 3 (December 2015): 399, <https://doi.org/10.33331/rechtsvinding.v4i3.13>.

In addition to these PMKs, several Constitutional Court Decisions serve as the foundation for Constitutional Court Procedural Law. These include Decision No.41 / PHPU. DVI/ 2008 (East Java Election), Decision No.17/PHPU. D-VIII/2010 (Sibolga City Election), Decision No.41/PHPU. D-VIII/2010 (Mandailing Natal Regency Election), and Decision No.45/PHPU. D-VIII/2010 (West Kota Waringin Regency Election). These decisions guide the resolution of election dispute outcomes. Currently, the procedural law of the Constitutional Court is scattered across various sources, making it less legitimate, systematic, harmonious, and comprehensive, which impedes the court's functionality. The procedural law is essential for the court to fulfill its role effectively. Judicial independence, a cornerstone of the separation of powers, ensures certainty. This principle mandates judges to function independently from legislative and executive influences.³¹ The substance contained within these regulations should be incorporated into formal law.³²

Given numerous unaddressed developments, particularly regarding procedural law in the Constitutional Court Law, amendments are necessary to bolster the Constitutional Court's role as the constitution's guardian in institutional and procedural terms. The effectiveness of PMKs is often questioned due to tendencies for non-compliance and disregard. The implementation of these decrees by lawmakers reflects the effectiveness of checks and balances. Adherence to these decrees also indicates whether the 1945 Constitution, the country's supreme law, is truly active and applicable. Although the Constitutional Court lacks the apparatus and resources to enforce its decisions, it is in the Court's interest to see its rulings respected and followed. There is no police, court bailiff, or other instruments to execute the Constitutional Court's decisions or to ensure judgments are implemented. The Constitutional Court, authorized to issue PMK, holds a high state position, as established by the 1945 Constitution.

PMK, a legal instrument of the Constitutional Court, is on par with the Presidential Regulation in terms of hierarchical status. The content of both these regulations is guided by law, with the PMK directed by the Constitutional Court Law through Article 86 of Law Number 24 of 2003 and its amendment, Law Number 8 of 2011. An analysis of the state's institutional framework suggests that the PMK, while ranking below Government Regulations, sits alongside Presidential Regulations in the hierarchy of laws. However, the PMK is not promulgated in the State Gazette, thus failing to satisfy the legal fiction. Further, not all PMKs possess the same material charge, with some being purely PMK material, while others contain elements of law. This is evident from the enforceability of PMK, some of which are internal to the Constitutional Court, while others extend externally.

Upon reviewing Article 10 of Law Number 12 of 2011, several PMKs related to procedural guidelines in the Constitutional Court qualify as regulations containing Law. They meet various elements of the Law's material content, including: a) the regulation being a further elaboration of the 1945 Constitution's provisions, and b) the regulation fulfilling the legal needs within the community. Consequently, PMKs containing Law should be reassessed by legislative authorities to evolve into the Procedural Law of the Court, thereby promoting an orderly system of laws and regulations, grounded in Legislative Science. To date, there have been approximately 11,680 legal review cases, 1,136 disputes over regional head and deputy regional election results, 672 general

³¹ Nuraini and Mhd Ansori, "Politik Hukum Kekuasaan Kehakiman Di Indonesia," *Wajah Hukum* 6, no. 2 (October 2022): 426, <https://doi.org/10.33087/wjh.v6i2.1075>.

³² Komisi Yudisial Republik Indonesia, *Meluruskan Arah Manajemen Kekuasaan Kehakiman*, Cetakan 1 (Jakarta: Sekretariat Komisi Yudisial Republik Indonesia, 2018), 54.

election dispute cases, and 29 disputes over state institution authority. All these cases necessitate legitimate rules of engagement, specifically in the form of Constitutional Court Procedural Law, and not merely Constitutional Court Regulations. If the existing Constitutional Court Regulation, which governs the Constitutional Court Procedural Law, continues to be upheld, it could potentially lead to authority abuse. Therefore, an immediate transition towards a Law-based form is crucial to prevent such misuse.

The Societal Imperative for the Implementation of Constitutional Court Procedural Law

The necessity for the establishment of the Constitutional Court Procedural Law is underscored by the significant interest of the litigants within the Constitutional Court framework. As of the time of this article's composition, there have been at least 11,680 legal review cases, 1,136 disputes over the regional head and deputy regional head election results, 672 general election dispute cases, and 29 disputes over the authority of state institutions. The year 2024 is also forecasted to experience an upsurge in election result dispute resolution cases, a testament to the growing public consciousness in state affairs and democracy. The public's growing engagement with democracy and law was particularly evident in response to the contentious Constitutional Court Decision No. 90/PUU-XXI/2023, which pertains to the review of Law Number 7 of 2017 on General Elections. Numerous reports of alleged ethical violations were submitted, leading to several hearings and the eventual issuance of four decisions by the Constitutional Court's Ethics Council (MKMK). Among the 21 reports submitted, four significant decisions were made by the MKMK: Decision Number 02/MKMK/L/11/2023 regarding alleged ethical and conduct violations by Chief Justice Anwar Usman, as reported by Denny Indrayana and others;³³ Decision Number 03/MKMK/L/11/2023 regarding Deputy Chairman of the Constitutional Court Saldi Isra, as reported by the People's Advocacy for the Archipelago (ARUN) and others;³⁴ Decision Number 04/MKMK/L/11/2023 pertaining to the Constitutional Judge Arief Hidayat, as reported by the Legal Aid Institute Cipta Karya Justice and others;³⁵ and Decision Number 05/MKMK/L/11/2023 regarding Constitutional Judges Manahan M.P. Sitompul, Enny Nurbaningsih, Wahiduddin Adams, Suhartoyo, Daniel Yusmic P. Foekh, and M. Guntur Hamzah, as reported by the Indonesian Legal Aid and Human Rights Association (PBHI) and others.³⁶

The public profound interest in democracy and law is further exemplified by their high expectations for the Constitutional Court as the custodian and ultimate interpreter of the constitution, the defender of human rights, the guarantor of citizens' constitutional rights, and the protector of democracy. This public enthusiasm for litigation in the Constitutional Court necessitates a systematic, harmonious, and comprehensive Constitutional Court Procedural Law. It is crucial that the legitimate Constitutional Court Procedural Law is established in the form of a Law, rather than a Constitutional Court Regulation (PMK), to meet these expectations and cater to the public's demand for justice.

³³ Decision of the Constitutional Court's Honor Assembly No.: 02/MKMK/L/11/2023.

³⁴ Decision of the Constitutional Court's Honor Assembly No.: 03/MKMK/L/11/2023.

³⁵ Decision of the Constitutional Court's Honor Assembly No.: 04/MKMK/L/11/2023.

³⁶ Decision of the Constitutional Court's Honor Assembly No.: 05/MKMK/L/11/2023.

The Imperative for Sound Constitutional Court Procedural Law

At present, the Indonesian Constitutional Court's institutional framework and procedural laws often fluctuate in response to societal needs, changing times, and evolving court proceedings, typically manifesting as PMK. For comparison, This section will examine the South African Constitutional Court. In South Africa, the Constitutional Court serves as the Supreme Court (according to Article 166 paragraph (1) and Article 167 paragraph (3) of the South African Constitution). Its jurisdiction encompasses (1) constitutional matters; (2) other issues, provided the Constitutional Court approves an appeal on the grounds that the matter in question is a subject of common law; (3) disputes between state institutions at both national and provincial levels, concerning their constitutional status, powers, or functions; (4) determining the constitutionality of a bill and draft provincial regulations; (5) constitutional review of provincial laws and regulations; (6) decision on the constitutionality of constitutional amendments; (7) determining whether parliament or the president has failed to fulfill their constitutional obligations; and (8) certifying provincial regulations.³⁷

Upon comparative analysis, this hierarchical structure bears a resemblance to the position of the United States Supreme Court when it functions as the highest appellate court for all cases originating from federal courts. However, significant differences exist between the two. The United States Supreme Court can resolve all kinds of cases that, within the Indonesian judicial power system, are typically referred to as the cassation level. In contrast, South Africa's Constitutional Court only serves as a specialized Court of Appeal for cases involving constitutional violations.

The Procedural Law of the Republic of South Africa's Constitutional Court is detailed in the Rules of Constitutional Court, Government Gazette 2572726, dated October 31, 2003. The Rules of the Constitutional Court are divided into 10 Parts: Part I - Court (rule 2); Part II - Registrar (rules 3-4); Part III - Joinder of Organs of State (rule 5); Part IV - Parties (rules 6-9); Part V - Amici curiae (rule 10); Part VI - Applications (rules 11-13); Part VII - Matters within the exclusive jurisdiction of the Court (rules 14-17); Part VIII - Direct access and appeals (rules 18-21); Part IX - Fees and costs (rules 22-23); and Part X - Miscellaneous provisions (rules 24-36).

In the construction of robust laws and regulations, A. Hamid S. Attamimi posits that legislators must adhere to two primary principles: formal and material. Formal principles encompass the principle of clear objective (*beginsel van duidelijke doelstelling*), the principle of appropriate institutional involvement (*beginsel van het juiste orgaan*), the principle of regulatory necessity (*het noodzakelijkheids beginsel*), the principle of feasibility (*het beginsel van uitvoerbaarheid*), and the principle of consensus (*het beginsel van consensus*). Material principles, on the other hand, include the principle of accurate terminology and systematic structure (*het beginsel van duidelijke terminologi en duidelijke systematiek*), the principle of recognizability (*het beginsel van de kenbaarheid*), the principle of equal legal treatment (*het rechtsgelijkheidsbeginsel*), the principle of legal certainty (*het rechtszekerheids beginsel*), and the principle of implementing law based on individual circumstances (*het beginsel van de individuele rechtbedeling*). The process of formulating laws and regulations provides an avenue for community involvement. This is acknowledged in Article 96 of Law No. 12 of 2011 pertaining to the Establishment of Laws and Regulations. The law-making process is progressively embracing public participation. As key stakeholders, the public has the right to express their views either verbally or in writing, in line with the principle of openness stated in Article 5, letter g. This principle underscores that the legislative

³⁷ Article 167 paragraphs (3) and (4) of South African Constitution.

process should be transparent and open. Public input can be made via public hearings, working visits, socialization, seminars, workshops, or discussions.³⁸ One hallmark of good governance is participation.³⁹ Therefore, public participation in deliberations on draft laws exemplifies the application of good governance and aligns with its principles, including community involvement, accountability, and transparency.

Therefore, modifications to the Constitutional Court Law are imperative in order to adapt to the evolving societal needs and the challenges of our dynamic times. Moreover, the existing Constitutional Court Law exhibits procedural inadequacies, as it lacks comprehensive regulations in line with the current legal advancements. Numerous aspects of procedural law are embedded within the Constitutional Court Regulations, which, in essence, should be governed by the Constitutional Court Procedural Law. From a juridical perspective, the establishment of a new Law on the Procedural Law of the Constitutional Court is essential. The objective of drafting the new Constitutional Court Procedural Law is to promote an independent, integral, and authoritative Constitutional Court through a more extensive regulation of Procedural Law. The regulatory direction to achieve these goals is to supersede the existing Constitutional Court Law and Law Number 8 of 2011 by revising and augmenting regulations pertaining to:

1. A transparent, participatory, objective, and accountable framework for the nomination and selection of constitutional judges;
2. The prerequisites for constitutional judge candidates and the tenure of constitutional judges, further safeguarding their independence;
3. The ethics board and honorary panel of the Constitutional Court as mechanisms to uphold the honor, dignity, code of ethics, and code of conduct of constitutional judges; and
4. A more comprehensive refinement of the Constitutional Court's procedural law, encompassing both general and special procedural laws, in line with disputed cases. These include the examination of laws against the 1945 Constitution, disputes over the authority of state institutions granted by 1945 Constitution, dissolution of political parties, disputes over election results, and adjudicating the House of Representatives' opinion on alleged violations by the President and/or Vice President.

The proposed Constitutional Court Law primarily governs the roles and responsibilities of constitutional judges, court clerks, and the court's general secretariat, each of which exercises authority in accordance with the Law on the Constitutional Court. Additionally, the draft law outlines the parties entitled to proceedings within the Constitutional Court, the recruitment process for constitutional judges, the supervisory mechanism for constitutional judges, and the procedural rules within the Constitutional Court.

The necessity of reconfiguring the Constitutional Court Procedural Law and establishing it as a separate statute has been a topic of frequent discussions. Despite these deliberations, no specific regulations pertaining to the Constitutional Court Procedural Law have been enacted as separate

³⁸ Joko Riskiyono, "Partisipasi Masyarakat Dalam Pembentukan Perundang-Undangan Untuk Mewujudkan Kesejahteraan," *Aspirasi: Jurnal Masalah-Masalah Sosial* 6, no. 2 (2015): 159–76, <https://doi.org/https://doi.org/10.46807/aspirasi.v6i2.511>.

³⁹ Ni Made Ari Yuliantini Griadhi and Anak Agung Sri Utari, "Partisipasi Masyarakat Dalam Pembentukan Peraturan Daerah," *Jurnal Kertha Patrika* 33, no. 1 (2008): 1–5, <https://doi.org/https://doi.org/10.24843/KP.2008.v33.i01.p01>.

laws. Unlike procedural laws, PMK on Procedural Law is not rigidly defined. Consequently, both the old and new PMKs serve as guidelines for litigants. In certain circumstances, it may be necessary for the panel of judges to convene to decide on specific courses of action in response to novel developments during a trial, in line with the dynamic nature of court proceedings. Procedural law is a product of the legislative process, and is thus the responsibility of lawmakers. However, from a theoretical perspective, the evolution of procedural law in practice also has a legitimate legal rationale. Ideally, these two aspects should be balanced and mutually reinforcing, in order to ensure equitable legal certainty for all citizens seeking justice.

CONCLUSION

The creation of the Constitutional Court Procedural Law, grounded in philosophical, juridical, and sociological principles, aims to provide a definitive framework for proceedings within the Constitutional Court. This law is intended to be equally binding for both Constitutional Judges and litigants. The formulation of such a law necessitates a two-fold focus on formal and material principles. The legislative process allows for public participation, as outlined in Law No. 12 of 2011, concerning the Establishment of Laws and Regulations. Public involvement in law-making is an evolving practice; as stakeholders, the public has the right to express their aspirations, both verbally and in writing, in line with the principle of transparency. Notably, one of the hallmarks of good governance is public participation. In this context, public involvement in discussing draft laws embodies the implementation of good governance and aligns with its principles, which include community engagement, accountability, and transparency. Therefore, the PMK, which encompasses the Law, should be further pursued by the legislative authority to evolve into the Procedural Law of the Constitutional Court. This evolution is crucial for fostering a sound legal order, based on the Science of Legislation.

REFERENCES

- A, I D. G. Palgunaa and Bima Kumara Dwi Atmaja. “‘Originalism’ of Interpretation in the United States Constitution.” *Sriwijaya Law Review* 7, no. 2 (2023): 190–208. <https://doi.org/10.28946/slrev.Vol7.Iss2.2.134.pp190-208>.
- Arizona, Yance, Endra Wijaya, and Tanius Sebastian. *Pancasila Dalam Putusan Mahkamah Konstitusi (Kajian Terhadap Putusan Mahkamah Konstitusi Yang Berkaitan Dengan Perlindungan Kelompok Marjinal)*. Jakarta: Epistema Institute, 2014.
- Asshiddiqie, Jimly. *Perihal Undang-Undang Di Indonesia*. Jakarta: Konstitusi Press, 2006.
- Aswanto, and Wilma Silalahi. *Perlindungan Penghormatan Dan Pemenuhan Hak Asasi Manusia Domestik Dan Internasional*. Cetakan 1. Depok: Rajawali Pers, 2021.
- Griadhi, Ni Made Ari Yuliantini, and Anak Agung Sri Utari. “Partisipasi Masyarakat Dalam Pembentukan Peraturan Daerah.” *Jurnal Kertha Patrika* 33, no. 1 (2008): 1–5. <https://doi.org/https://doi.org/10.24843/KP.2008.v33.i01.p01>.
- Hakim, Muh Ridha. “Tafsir Independensi Kekuasaan Kehakiman Dalam Putusan Mahkamah Konstitusi / Interpretation Of Judicial Power Independence In Constitutional Court Decisions.” *Jurnal Hukum Dan Peradilan* 7, no. 2 (July 2018): 279. <https://doi.org/10.25216/jhp.7.2.2018.279-296>.

- Hariyanto, Hanif Fudin, Muhammad Fauzan, Kadar Pamuji, and Tedi Sudrajat. "The Communal Democracy of Yogyakarta Special Region's Government on the Islamic Law Eclecticism Perspective." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 18, no. 1 (June 2023): 200–221. <https://doi.org/10.19105/al-lhkam.v18i1.7403>.
- Jaelani, Abdul Kadir, Ahmad Dwi Nuryanto, Rakotoarisoa Maminirina Fenitra, M. Misbahul Mujib, and Resti Dian Luthviati. "Legal Protection of Employee Wage Rights in Bankrupt Companies: Evidence from China." *Legality : Jurnal Ilmiah Hukum* 31, no. 2 (August 2023): 202–23. <https://doi.org/10.22219/ljih.v31i2.25874>.
- Keputusan Majelis Kehormatan Mahkamah Konstitusi Nomor: 01 /MKMK-SPL/II/2017 Tanggal 16 Februari 2017 (n.d.).
- Keputusan Majelis Kehormatan Mahkamah Konstitusi Nomor: 01/MKMK/X/2013 Tanggal 31 Oktober 2013 (n.d.).
- Komisi Yudisial Republik Indonesia. *Meluruskan Arah Manajemen Kekuasaan Kehakiman*. Cetakan 1. Jakarta: Sekretariat Komisi Yudisial Republik Indonesia, 2018.
- Konstitusi Afrika Selatan (n.d.).
- Latif, Abdul. *Fungsi Mahkamah Konstitusi Dalam Upaya Mewujudkan Negara Hukum Demokrasi*. Cetakan 1. Yogyakarta: Kreasi Total Media, 2007.
- Lestari, Diah Puji. "Analisis Yuridis Normatif Pemberian Kompensasi Perjanjian Kerja Waktu Tertentu (PKWT) Berdasarkan Undang-Undang Cipta Kerja." *Jurnal Hukum Lex Generalis* 3, no. 5 (2022). <https://doi.org/https://doi.org/10.56370/jhlg.v3i5.160>.
- Marzuki, Mahmud Peter. *Penelitian Hukum: Edisi Revisi*. Revisi. Jakarta: Kencana Prenada Media Grup, 2017.
- Notonagoro. *Pancasila Dasar Falsafah Negara*. Jakarta: Pantjuran Tujuh, 1974.
- Nuraini, and Mhd Ansori. "Politik Hukum Kekuasaan Kehakiman Di Indonesia." *Wajah Hukum* 6, no. 2 (October 2022): 426. <https://doi.org/10.33087/wjh.v6i2.1075>.
- Palguna, I Dewa Gede. *Pengaduan Konstitusional (Constitutional Complaint) Upaya Hukum Terhadap Pelanggaran Hak-Hak Konstitusi Warga Negara*. Jakarta: Sinar Grafika, 2013.
- Putusan Majelis Kehormatan Mahkamah Konstitusi Nomor: 02/MKMK/L/11/2023 (n.d.).
- Putusan Majelis Kehormatan Mahkamah Konstitusi Nomor: 03/MKMK/L/11/2023 (n.d.).
- Putusan Majelis Kehormatan Mahkamah Konstitusi Nomor: 04/MKMK/L/11/2023 (n.d.).
- Putusan Majelis Kehormatan Mahkamah Konstitusi Nomor: 05/MKMK/L/11/2023 (n.d.).
- Rahman, Faiz, and Agung Wicaksono. "Eksistensi Dan Karakteristik Putusan Bersyarat Mahkamah Konstitusi." *Jurnal Konstitusi* 13, no. 2 (2016): 348–78. <https://doi.org/https://doi.org/10.31078/jk1326>.
- Riskiyono, Joko. "Partisipasi Masyarakat Dalam Pembentukan Perundang-Undangan Untuk Mewujudkan Kesejahteraan." *Aspirasi: Jurnal Masalah-Masalah Sosial* 6, no. 2 (2015): 159–76. <https://doi.org/https://doi.org/10.46807/aspirasi.v6i2.511>.
- Risky, Saiful, Sholahuddin Al-Fatih, and Mabarroh Azizah. "Political Configuration of Electoral System Law in Indonesia from State Administration Perspective." *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 1 (2023). <https://doi.org/https://doi.org/10.24090/volksgeist.v6i1.7940>.

- Risnain, Muh. “Konsep Peningkatan Kuantitas Dan Kualitas Program Legislasi Nasional: Rekomendasi Konseptual Dan Kebijakan Pada Prolegnas 2015-2019.” *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 4, no. 3 (December 2015): 399. <https://doi.org/10.33331/rechtsvinding.v4i3.13>.
- Setya, Kartika Winkar, Abdul Aziz Nasihuddin, and Izawati Wook. “Fulfilling Communal Rights through the Implementation of the Second Principle of Pancasila towards the Regulation on Agrarian Reform.” *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 1 (June 2023): 89–102. <https://doi.org/10.24090/volkgeist.v6i1.7867>.
- Siahaan, Maruarar. *Hukum Acara Mahkamah Konstitusi Republik Indonesia*. Jakarta: Sinar Grafika, 2012.
- Simanjuntak, Supriardoyo, Ridho Alfaiz, and Melisa Ambarita. “Urgensi Perluasan Kewenangan MK Terhadap Constitutional Question Dan Constitutional Complaint Sebagai Wujud Perlindungan Hak Konstitusional Warga Negara.” *Jurnal Legislatif* 4, no. 2 (2021): 297–304. <https://doi.org/https://doi.org/10.20956/jl.vi.14605>.
- Soekanto, Soerjono, and Sri Mamudji. *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: Sinar Grafika, 2004.
- Soeprapto, and Maria Farida Indrati. *Ilmu Perundang-Undangan: Jenis, Fungsi Dan Materi Muatan*. Yogyakarta: Kanisius, 2007.
- Soimin. *Pembentukan Peraturan Perundang-Undangan Negara Di Indonesia*. Yogyakarta: UII-Press, 2010.
- Suherman, Andi. “Implementasi Independensi Hakim Dalam Pelaksanaan Kekuasaan Kehakiman.” *SIGN Jurnal Hukum* 1, no. 1 (September 2019): 42–51. <https://doi.org/10.37276/sjh.v1i1.29>.
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (n.d.).
- Utama, Rico Yodi Tri, and Retno Saraswati. “Independensi Dan Urgensi Restrukturisasi Sistem Peradilan Pidana Indonesia Berdasarkan Aspek Kekuasaan Kehakiman.” *Ajudikasi : Jurnal Ilmu Hukum* 5, no. 1 (June 2021): 53–70. <https://doi.org/10.30656/ajudikasi.v5i1.2740>.
- UU Nomor 24 Tahun 2003 Tentang Mahkamah Konstitusi (n.d.).
- Yanti, Herma. “Gagasan Constitutional Complaint Sebagai Kewenangan Baru Mahkamah Konstitusi Dalam Perlindungan Hak Konstitusional.” *Wajah Hukum* 2, no. 2 (November 2018): 185. <https://doi.org/10.33087/wjh.v2i2.40>.