

# The Constitutional Court's Role in the Protection of Citizen's Constitutional Rights: A Review of Monumental Decisions

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## ABSTRACT

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This research aims to examine the role of the Constitutional Court in the protection of citizen's constitutional rights. This paper will clarify some crucial things including how the conception of citizen's constitutional rights is, how crucial the role of the Constitutional Court is, as well as some monumental decisions of the Constitutional Court in the protection of citizen's constitutional rights. This research method is a normative legal research method with statute approach, conceptual approach, and case approach. Data collection is carried out by compiling some relevant Constitutional Court decisions as well as library research. The results of this study indicate that, firstly, the citizen's constitutional right is the basic right, therefore it needs to be protected by the state through the Constitutional Court. Secondly, in the Indonesian constitutional system, the Constitutional Court has an important role in efforts to protect citizens' constitutional rights, because Constitutional Court Decision is final and binding, thereby it has strong coercive power to be obeyed by the public. Lastly, During the Constitutional Court was established, there have been many decisions of the Constitutional Court which have become precedents in the protection of citizen's constitutional rights.

**Keywords:** Citizen's Constitutional Rights; Monumental Decisions; The Constitutional Court.

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## INTRODUCTION

Since Indonesia was established and proclaimed in 1945 until presently, the dynamics of state administration have continued to evolve to attain the ideal condition of a nation. In the history of state administration, it was recorded that Indonesia had adopted four types of the constitution: the 1945 Constitution (1945-1949); the Constitution of the United Republic of Indonesia (1949-1950); the Interim Constitution (1950-1959); and returned to the 1945 Constitution (1959-nowadays). After it returned to the 1945 Constitution, Indonesia had enacted four amendments: first amendment (1999); second amendment (2000); third amendment (2001); and fourth amendment (2002) (Barus, 2017).

Agenda for amendments to the 1945 Constitution of the Republic of Indonesia in 1999-2002 has provided many fundamental transformations in the Indonesian constitutional system. The result of the amendment had initiated a new judicial institution which concerned with constitutional scope, namely the Constitutional Court of the Republic of Indonesia (*Mahkamah Konstitusi Republik Indonesia*). The Constitutional Court was established in the third amendment of the 1945 Constitution (2001), which was intended to protect the citizen's constitutional rights as well as to protect constitutional purity (Maulidi, 2017).

Based on the amendment, it has obviously transformed significantly the existing justice system in Indonesia. Currently, the judiciary in Indonesia adheres to a bifurcation system which is a two-chamber system between the Supreme Court (*Mahkamah Agung*) as the court of justice which handles conventional cases, and the Constitutional Court as the court of law which handles constitutional cases (Hidayat & Sari, 2018). This is as regulated in Article 24 Paragraph 2 of the 1945 Constitution of the Republic of Indonesia which asserts strictly that "*Judicial power is undertaken by a Supreme Court and subordinate judiciary in the environment of general courts, religious courts, military courts, and state administrative courts, and by a Constitutional Court*".

The presence of the constitutional court is expected to be able to guard the upholding of the constitution in the rule of law view, where the Constitutional Court is aspired to be able to provide legal breakthroughs through its progressive and out-of-the-box decisions in order to be able to render the law as a tool of social engineering in the life of the nation and state that is more dignified (Nawas, 2021). Conceptually there are five functions which attach to the existence of

the constitutional court in carrying out each of its duties and obligations, including the guardian of the constitution, the protector of democracy, the protector of human rights, the final interpreter of the constitution, and the protector of citizen's constitutional rights (Sa'adah, 2019).

The existence of the constitutional court in the Indonesian constitutional system is expressly regulated in Article 24C of the 1945 Constitution of the Republic of Indonesia, where the Constitutional Court has four authorities: (1) to examine the law against the constitution; (2) to determine the disputes over the authority of state institutions whose powers are granted by the constitution; (3) to determine the dismissal of political parties; and (4) to determine the disputes about the results of general elections; and one obligation: Constitutional Court must give a decision on the opinion of the House of Representatives (*Dewan Perwakilan Rakyat*) regarding alleged violations by the President and/or the Vice President according to the constitution.

From the overall powers and obligations of the Constitutional Court, the authority of judicial review is one of the most crucial and strategic authorities to assure the functioning of nomocracy and democracy, where the Constitutional Court serves as a balance among the executive power, the legislative power, and the judicial power (Siahaan, 2020). Furthermore, the authority of judicial review serves to create prudential principles for legislators, bearing in mind that in judicial review, the Constitutional Court assesses the constitutionality of a law, whether there is a violation of citizen's constitutional rights from the enactment of laws issued by the House of Representatives and the President or it is by constitutional values (Rishan, 2021).

It was recorded that for two decades, since the founding of the Constitutional Court in 2003 until June 2023, there had been 1662 cases of judicial review which had been submitted to the Constitutional Court (Mahkamah Konstitusi Republik Indonesia, 2024). This indicates how significant the role of the Constitutional Court is in protecting the citizen's constitutional rights from the enactment of laws which is formed by the House of Representatives and the President. Thereby, based on the commentary above, this research intends to answer fundamental questions regarding the conception of citizen's constitutional rights, the feature of the decisions of the Constitutional Court and its role in protecting the citizen's constitutional rights, and the various monumental decisions of the Constitutional Court in the protection of citizen's constitutional rights.

## METHOD

This research is normative legal research, according to Teguh Prasetyo, normative legal research is a process of legal discovery by searching for legal sources, legal rules or principles, and legal regulations to resolve a legal problem (Prasetyo, 2019). This research uses three types of approaches: statute approach - to elaborate on several statutory regulations relevant to the authority and existence of the Constitutional Court; conceptual approach - to inspect several doctrinal concepts from the legal experts; and case approach - to clarify several monumental decisions of the Constitutional Court in the protection of citizen's constitutional rights. Data collection in this research was carried out by collecting relevant Constitutional Court decisions and through literature study methods.

## DISCUSSION AND ANALYSIS

### Constitution and Constitutional Right of Citizens

Constitution is an integral part of the country, this is because the constitution is a fundamental state norm that regulates all state administration affairs. Historically, the idea of a constitution has actually existed since the ancient Greek and Roman ages, during that time the constitution inspired political philosophers such as Plato and Aristoteles, thus opening the minds of mankind about the goals of better government through the constitution (Akmal & Arlianti, 2022).

In terms of terminology, the constitution is an absorption of the word *constituer* (French) which means to form, in this case, the function of the constitution is to form and organize a country so that there is no chaos. Meanwhile, in Latin constitution is a combination of two words, namely "*cume*" and "*statuere*". The word "*cume*" can be interpreted as a preposition which means "*together with...*", whereas "*statuere*" comes from the word "*sta*" which forms the main verb "*stare*" which means "*standing alone*". On this basis, the word "*statuere*" can be interpreted as establishing and making something. Nowadays, the vocabularies regarding constitutional terms can be seen

from various terminological approaches from several countries such as England (*constitution*), the Netherlands (*grondwet*), Germany (*verfassung* and *grundgezets*), and France (*droit constitutionelle* and *loi constitutionelle*) (Akmal & Arlianti, 2022).

The Constitution is defined by legal experts with diverse views. C. F. Strong deems that the constitution has three basic principles, namely the principle of government power, the principle of citizens' rights, and the principle of the relationship between citizens and the state (government). In the context of the principle of governmental power, the constitution must clearly construct who holds governmental power and whether that power is centralized in one organ or distributed among several organs. In the context of the principle of citizens' rights, the constitution must provide and protect every fundamental right of citizens. In the context of the principle of the relationship between citizens and the state (government), the constitution must regulate the relationship between citizens and the state, which in this case is the government as the administrator of government. This principle is crucial to clearly ensure each individual's rights and obligations (Syafriadi, 2019).

In a different view, Ferdinand Lasalle regards the constitution in two senses; firstly, the sociological and political sense, in the sense that the constitution is seen as a synthesis between real political power factors in society, such as the king, parliament, cabinet, pressurers, political parties, and so on. The dynamic among real political forces is what is understood as a constitution. Secondly, the juridical sense, in the sense that the constitution is seen as a text which contains basic provisions regarding state buildings and the foundations of state government (Akmal & Arlianti, 2022). Sri Soemantri deems that the constitution is composed of three essential contents: (1) the protection of human rights; (2) fundamental constitutional structure; and (3) fundamental division and limitation of power (Syafriadi, 2019). From Sri Soemantri's view, it can be understood that one of the crucial contents of the constitution is the guarantee and the protection of human rights and/or the constitutional rights of citizens.

Normatively, there are significant differences between the constitutional rights of citizens and human rights. While human rights are universal rights that every human being has since they were born (a humanitarian approach between humans and God), the constitutional rights of citizens are actually specific about the rights listed in the constitution as the highest basic law

(administrative approach between the state and its citizens) (Akmal & Arlianti, 2022). In other words, human rights apply to everyone regardless of ethnicity, race, religion, and nationality just like the right to life which is regulated in Article 28A of the 1945 Constitution of the Republic of Indonesia. Meanwhile, the constitutional rights of citizens apply in a limited way only to citizens, such as political rights which are regulated in Article 28D paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

According to Jimly Asshiddiqie, the constitutional rights of citizens are the rights that are guaranteed in and by the 1945 Constitution of the Republic of Indonesia as a constitution, whether stated expressly or impliedly. Where that right is a form of legal protection from potential abuse of authority by authorities who can undermine at any time the constitutional rights of citizens (Fariza, 2019). In the Indonesian constitutional system, when a public official is deemed or suspected to have violated the constitutional rights of citizens, every citizen can fight for their constitutional rights through the process of reviewing laws at the Constitutional Court as mandated by Article 24C of the 1945 Constitution of the Republic of Indonesia. Where this mechanism is an extraordinary mechanism to restore the rights of people who feel their rights have been violated by the enactment of a law established by the House of Representatives and the President (Handayani & Angrayni, 2019).

## **The Characteristic of Constitutional Court Decisions and Its Role in Protecting Citizen's Constitutional Rights**

The existence of the Constitutional Court in the Indonesian constitutional system has a very important position to ensure a check and balance mechanism in state administration as well as to protect the constitutional rights of citizens from potential abuse of power, this can be seen from the position of the Constitutional Court's decisions which can be said to have the same power as the law. Where the Constitutional Court's decision is not only binding on the litigants (*inter partes*), but is also *erga omnes*, that is, binding on everyone (the public), the same as a law which in this case is general-abstract in nature which also binds the public if it has been validated and entered into the state gazette (Nugroho, 2019). The principle of *erga omnes* in the Constitutional Court's decision is based on the principle mandated in the constitution that the Constitutional Court's decision is final and binding, where final means there is no legal appeal

afterward (final challenge) and binding means that if the Constitutional Court has issued a decision then the decision is automatically binding on the public and must be obeyed (Ningrum., et al, 2022).

The implementation of the Constitutional Court's decision which is final and binding is further explained in positive law, specifically in Article 59 paragraph (1) of the Constitutional Court law which states that *"the decision of the Constitutional Court regarding judicial review of the 1945 Constitution of the Republic of Indonesia submitted to the House of Representatives, the Regional Representative Council (Dewan Perwakilan Daerah), the President and the Supreme Court"*.

Submitting the Constitutional Court's decision to the relevant institutions, especially to the House of Representatives and the President is intended as notification that if a law decided by the Constitutional Court is unconstitutional or has given rise to a new norm, then the legislators must follow up on the Constitutional Court's decision as soon as possible by carrying out revision of the law in question (formal/material) as a legislative process as a follow-up to the Constitutional Court's decision (Muda, 2023). This is also based on the strength of the Constitutional Court's Decision which essentially has a sacred legal message, because when the Constitutional Court has issued a decision on a review of law, then legally the legislators, both the House of Representatives and the President, are bound by two legal messages, which is absolutely attached to the Constitutional Court's decision, namely the legal message "command" which is expressly stated in the ruling and the legal message "advice" which is implicitly explained in the legal considerations in the Constitutional Court's decision (Muda, 2023).

Therefore, in this context, there should be no reason for any element of society or state institutions not to comply with the Constitutional Court's decision, moreover, in each decision, the Constitutional Court will provide a legal opinion that underlies each decision by adhering to the scientific basis of constitutional judges as statesmen who master at constitution and state administration. Where the legal opinion has four important functions: first, its function is to provide an explanation - the court's legal opinion will provide a comprehensive explanation of the law to the parties, why the winner wins and why the loser loses in the judicial review case; second, it functions to limit and prevent arbitrariness - having a court legal opinion will provide validation to the parties, especially the losing party, that each argument has been considered and evaluated

based on fairness; third, it functions to ensure truth - the inclusion of legal opinions in Constitutional Court Decisions will compel constitutional judges to examine whether the legal reasons and facts guarantee the conclusions they want to reach, so that this will strengthen the judge's decision-making process; fourth, it functions to create an in-depth evaluation mechanism - legal opinions will require the Constitutional Court to look backwards and forwards to evaluate each case point and the implications of the decision (Muda, 2023).

Based on the explanation above, it is clearly seen that the Constitutional Court has an important role in protecting the constitutional rights of citizens. When there is a legal product made by the House of Representatives and the President which is deemed to have violated the constitutional rights of citizens, then every Indonesian citizen can submit an application for judicial review to the Constitutional Court. If in its consideration, the Constitutional Court assesses that there has been a violation of rights regarding the enactment of a law being reviewed, then the Constitutional Court will decide on the unconstitutional decision, both material and formal, of the law in question, in other words, the Constitutional Court is the last resort for every seeker of justice (*justiciabelen*) to fight for every right. In this position, the Constitutional Court acts as an organ that provides corrective justice to the legal relationship between the House of Representatives and the President as the legislators and the people as the party who directly receives and experiences the logical consequences of the enactment of the law (Indra., et al, 2023).

Moreover, conceptually, guaranteeing and protecting human and citizen rights is a vital issue in constitutionalism. Where one of the contents of the constitution according to Sri Soemantri is that there must be guarantees and protection for human and citizen rights so that the Constitutional Court in protecting the constitutional rights of citizens will ultimately make the constitution valuable and continue to exist, not just formal legality but also substantially (Jurdi & Yani, 2023). Thereby, the existence of a constitution will be null if the role of the Constitutional Court in protecting the constitutional rights of citizens is not implemented consistently. As a classic expression by a member of the Konstituante (1956-1959) from the Masyumi Party stated "*...If the constitution is like a river, then human rights are the water that flows in it, without water, the river is just a barren and winding hole, such is the constitution without human rights*" (Jurdi & Yani, 2023). This means that the role of the Constitutional Court is very crucial in ensuring the constitutional rights of citizens.



## Monumental Decisions of the Constitutional Court in the Protection of Citizen's Constitutional Rights

The existence of a constitutional judicial body is of paramount importance and strategic for countries that adhere to the checks and balances principle like Indonesia, where the judicial institution acts as a balance of power and direct control for the legislative and executive. The constitutional practice that occurred in the United States in the case of Marbury versus Madison, which was decided by Supreme Court Justice John Marshall (1803) was the forerunner to the birth of the notion of establishing a constitutional court (Jurdi & Yani, 2023). Afterward, Hans Kelsen inspired the formation of the Austrian Constitutional Court as the first constitutional court in the world (1920) (Margi & Khazanah, 2019). Those constitutional practices have become the driving force for the birth of the Constitutional Court of the Republic of Indonesia.

In the constitutional amendment agenda (1999-2002), the founding fathers ultimately approved to establish the Constitutional Court as a judicial institution which tasked to handle constitutional issues. The Constitutional Court was born in the third amendment of the 1945 Constitution in 2001 (de jure) and began operating to carry out its duties and authorities in 2003 (de facto) with the enactment of Law Number 24 of 2003 concerning the Constitutional Court. Hence, the Constitutional Court of the Republic of Indonesia as a constitutional court in Indonesia arguably has been two decades old. Albeit it is not old age for the establishment of a state institution, however, the Constitutional Court's journey is also not a short one. For two decades, the Constitutional Court has contributed a lot to the effort to protect the constitutional rights of citizens. There are so many constitutional court decisions which are extremely monumental and historical in the Indonesian constitutional practice. Since the Constitutional Court was established until June 2023, there have been 1662 cases of judicial review which were judged at the Constitutional Court (Mahkamah Konstitusi Republik Indonesia, 2024).

It designates how crucial the role of the Constitutional Court is in the protection of citizen's constitutional rights from potential abuse of power which is conducted by the House of Representatives and President in the process of forming laws. From the many cases of judicial review which were judged at the Constitutional Court, this essay would be concerned to

elaborate on some monumental decisions of the Constitutional Court in the protection of citizens' constitutional rights which have robust precedent in Indonesian constitutional dynamics.

### **1) The Fulfillment of the Right to Vote through A Resident's Identity (The Constitutional Court Decision Number 102/PUU-VII/2009)**

The Constitutional Court Decision Number 102/PUU-VII/2009 arguably was one of the Constitutional Court Decisions which was highly progressive in ensuring the fulfillment of the rights of citizens in exercising their voting rights in elections. From that decision, a method of identity card (KTP) was born as one of the voting requirements for citizens who were not registered on the permanent voter list (DPT). This decision began with a judicial review of Law Number 42 of 2008 concerning the General Election of President and Vice President at that time, which was tested by Refly Harun and Maheswara Prabandono. According to that constitutional court decision, they tested the provisions of Article 28 and Article III of a quo Law which basically stipulates that in order to be able to vote, the voters must require 2 (two) things: (1) they must be registered as a voter; (2) the registered voters were in the permanent voter list (DPT).

The provisions of the Article were regarded by the applicants to have eliminated or at least have the potential to eliminate the right to vote for citizens who had met the requirements as voters (17 years old and/or married), but they were not enrolled in the permanent voter list (DPT). Although the right to vote is a right guaranteed in the constitution. In its decision, the Constitutional Court asserted that the request for judicial review of a quo law was conditionally constitutional as long as it did not eliminate the voting rights of citizens who were not registered in the permanent voter list (DPT). In its decision, the Constitutional Court initiated the KTP method as one of the requirements while the voters were not registered in the permanent voter list (DPT). Through that decision was clearly seen the role of the Constitutional Court in the protection of the constitutional rights of citizens, which were the voters whose voting rights were derogated. There are two underlying reasons why this decision can be considered as a monumental decision as well as shows a good precedent in the protection of the constitutional rights of citizens.

Firstly, the right to vote is one of the constitutional rights that must be fulfilled and protected to reach a democratic system in the democratic general election (Nasution &

Marwandianto, 2019). In the view of the Constitutional Court as citing other constitutional decisions (the Constitutional Court Decision Number 011-017/PUU-I/2003), stated that the right to vote and to be a candidate was a right guaranteed in the constitution, law, and international convention. Thereby, limitation, deviation, elimination, and deletion of those rights are violations of the human rights of citizens. The clauses which oblige a citizen to be registered as a voter in the permanent voter list (DPT) are more of an administrative procedure. Hence, it cannot negate substantial things like citizen's right to vote in the general election.

Secondly, in the judicial review of a quo law, the Constitutional Court presented a self-executing decision, where the General Election Commission (KPU) could immediately apply the Constitutional Court Decision without waiting for the Government Regulations in Lieu of Law (Perppu) or other statutory regulations to guarantee, to protect and to fulfill citizen's constitutional rights to exert their right to vote (Hastuti, 2018). The Constitutional Court ordered the General Election Commission to further regulate the technical implementation of the usage of the voting rights of Indonesian citizens who were not registered in the permanent voter list (DPT) using the method of identity card which was based on guidelines for the Constitutional Court Decision. This means, in this condition, the Constitutional Court had been brave enough to act progressively and come out of the shadow of negative legislators in order to look for substantial justice (Hakim & Pratiwi, 2022).

In that context, the action of the Constitutional Court was basically the precise action, by reason the Constitutional Court must seek, explore, follow, and conceive legal values and sense of justice that exist in society. If there is a legal vacuum because the Laws do not regulate or the regulations seem obscure, the Constitutional Court as the judicial institution must be able to do legal discovery (Sujono, 2021). This also signifies that the Constitutional Court as the judicial authority seriously becomes a counterweight to executive and legislative power in the constitutional democratic principles (Hadinatha, 2022).

## **2) The Testing of Peppu as A Constitutional Court Authority Regime (The Constitutional Court Decision Number 138/PUU-VII/2009)**

The progressivism of the Constitutional Court can also be seen from the Constitutional Court Decision Number 138/PUU-VII/2009 regarding the testing of the Government Regulations

in Lieu of Law (Perppu) Number 4 of 2009 concerning Amendments to Law Number 30 of 2002 concerning the Corruption Eradication Commission (KPK). That Constitutional Court Decision was the starting point where the Constitutional Court gave legal interpretation which stated that the Constitutional Court had the authority to challenge Perppu. The interpretation of the Constitutional Court was extremely controversial since there had been fundamentally a state institution that constitutionally was given authority to challenge Perppu. Based on the provision of Article 22 of the 1945 Constitution of the Republic of Indonesia, that authority is had by the House of Representatives, where at the next assembly period, the House of Representatives will observe (legislative review) whether the Perppu issued by the President can be accepted into law or rejected instead (Perdhana, 2021).

The Constitutional Court as the interpreter of the constitution also conceived the constitutional limits; however, the Constitutional Court deemed there had been a legal vacuum between the circumstance after the Perppu was released by the President and the circumstance before the Perppu was examined by the House of Representatives. At that condition, the Perppu which had come into force and binding to the public had the potential to go away with the constitutional rights of citizens, meanwhile, the societies did not have challenge efforts against the Perppu due to the domain of the House of Representatives to inspect the constitutionality of the Perppu which in the fact parliamentary session took long periods of time and was uncertain (Perdhana, 2021).

Based on the circumstance, the Constitutional Court as the protector of human rights and citizens' constitutional rights, regarded that they had the authority to examine the Perppu to safeguard the constitutional rights of citizens. This also implies that the Constitutional Court would like to make every individual obtain legal effort to struggle for their rights which were regarded to have been harmed by a Perppu. Bearing in mind that under the principles of a democratic rule of law, it is not possible for even one second for a potential violation of the human rights of citizens to occur, on the grounds that the protection and the guarantee of human rights and citizen's constitutional rights are the absolute principles in the democratic rule of law (Munte & Sagala, 2021).

The Decision of a quo Constitutional Court has opened a space for every individual to fight their rights at the Constitutional Court if there is a Perppu which is deemed to eliminate the

constitutional rights. In the Constitutional Court Decision Number 138/PUU-VII/2009, there have been several legal considerations why the Constitutional Court presumes the Perppu as a regime of the Constitutional Court's authority: (1) the position of the Perppu is at the same level as the Law in the hierarchy of legislative regulations; (2) the Article 22 of the 1945 Constitution of the Republic of Indonesia which regulate about Perppu is the part of Chapter VII concerning the House of Representatives, which conduct the authority to form the Laws, just because the Perppu is used to overcome urgent matters, hence the Perppu is lodged to the President by reason the mechanism at the House of Representatives is greatly extensive; (3) the content of the Perppu is the same as the content of the Law; (4) the Perppu is needed while there is an urgent condition; (5) the Perppu create the new legal norms, which can give rise to new legal statuses, new legal relationships and new legal consequences. Thereby, based on that legal consideration, the Constitutional Court assumed that it was extremely precise if the Perppu was part of their authority.

### **3) Conditional Unconstitutionality of Umbrella Acts (The Constitutional Court Decision Number 91/PUU-XVIII/2020)**

The Constitutional Court regarding the judicial review of the Job Creation Law (Undang-Undang Cipta Kerja) is arguably one of the new decisions in the history of the Constitutional Court of the Republic of Indonesia. This is because, in that decision, the Constitutional Court undertook a formal review against Job Creation Law which used the omnibus law method. Omnibus law is one of the methods of forming laws by collecting several legal clusters into one regulation which is called an umbrella act (Anggono, 2020). This method is intended so that lawmakers can accelerate several laws in one run in order to achieve effectiveness and efficiency in dealing with obesity and overlapping regulations in Indonesia. Regarding the Job Creation Law, the Government with the House of Representatives intended to accelerate job creation as broadly as possible and to enhance investment, by revising and forming several legal clusters concerning job creation (HS et al., 2022).

The problem was that there had been so many legal clauses in the Job Creation Law which were rejected by civil societies, by reason there were so many controversial things that were deemed that they could do away with society's rights. Furthermore, the omnibus law method

formally did not have a clear legal basis in the method of forming laws. Apart from that, the process of establishing the Job Creation Law was also examined to be hasty and not transparent due to less of meaningful participation. Based on that issue, a quo law ultimately was reviewed at the Constitutional Court. Through the Constitutional Court Decision Number 91/PUU-XVIII/2020, the Constitutional Court asserted that the establishment of Job Creation Law was conditionally unconstitutional, as long as it was not interpreted as “no changes were made within two years of the decision being announced” (Rahman & Wicaksono, 2023).

In their legal opinion, the Constitutional Court fundamentally conceived the regulatory obesity conditions which resulted in overlap among laws were the prime issue that predisposed the Government to exert the omnibus law method so that it could accelerate investment and widen the job industry in Indonesia. Nonetheless, it does not mean the Government can lay aside the rules and the guidelines of forming laws just because they want to overcome that problem. This is because the law must essentially run in the true way, where means and goals are two things that cannot be separated from the principle of a democratic rule of law.

This Constitutional Court Decision is special as one of the precedents of the important role of the Constitutional Court is because, in that decision, the Constitutional Court determined with a conditional unconstitutional ruling. Where the choice of the Constitutional Court to declare a quo law was unconstitutional conditionally was to forestall the legal vacuum. Thereby, the Constitutional Court decided to equalize the requirements of forming laws on one side, which must be fulfilled as formal requirements to achieve the principles of legal certainty, expediency, and justice. Meanwhile, the Constitutional Court also took into consideration the strategic purpose of the Government from the establishment of a quo law on the other side which was intended to accelerate investments and to widen the job industry (Novanto & Herawati, 2022).

At that condition, the Constitutional Court pointed out their crucial role, not only in the protection of citizen’s constitutional rights from the potential rights violations due to the existence of the formally flawed legislation but also in the effort to protect the wider rights, which means that it is also like the legal products which have a tremendous impact in the society (Novanto & Herawati, 2022).

## CONCLUSION

The constitutional rights of citizens are fundamental rights, hence they must be protected by the country through one of the apparatuses, which is the Constitutional Court. The Constitutional Court as the protector of citizens' constitutional rights comes into play in the effort of the protection of the citizen's constitutional rights through judicial review mechanism. Based on Article 24C paragraph (1) of the Constitution of the Republic of Indonesia, the Constitutional Court Decision is final to examine the law against the Constitution. This indicates how crucial the role of the Constitutional Court is in the protection of citizens' constitutional rights, on the grounds that the Constitutional Court Decision is erga omnes (binding on the public), therefore each of their decisions should be obeyed. During the Constitutional Court existence, there have been so many crucial and progressive decisions in the Indonesian constitutional dynamics. Some of them: (1) the Constitutional Court Decision Number 102/PUU-VII/2009; (2) the Constitutional Court Decision Number 138/PUU-VII/2009; and (3) the Constitutional Court Decision Number 91/PUU-XVIII/2020. Those decisions are some of the many decisions of the Constitutional Court which give strong precedents concerning the protection of citizen's constitutional rights.

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