



Implementation of the Principle of Constitutional Supremacy in Law Enforcement in Indonesia

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ABSTRACT

The principle of constitutional supremacy serves as a foundational cornerstone within Indonesia's legal and governmental framework, positioning the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) as the highest authority in the hierarchy of legislation. This supremacy is not merely symbolic; it acts as a fundamental norm (grundnorm) that should guide both the legislative process and the execution of state power. This article explores how the principle of constitutional supremacy is applied in the enforcement of law in Indonesia, while also highlighting the normative and structural challenges that hinder consistent constitutional adherence. Utilizing a normative juridical approach, this study analyzes statutory regulations, Constitutional Court rulings, and observes state practices. The findings reveal that despite the Constitutional Court's significant role in safeguarding constitutional integrity through judicial review, implementation at the practical level often suffers from regulatory inconsistencies, non-compliance with constitutional rulings, and limited constitutional understanding among law enforcers and lawmakers. To address these issues, institutional strengthening, legislative reform, and widespread constitutional education are imperative to ensure all state actions and policies are in harmony with the principle of constitutional supremacy.

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INTRODUCTION

A constitution is a foundational legal document that underpins the operation of a modern state. Within the framework of Indonesia's constitutional system, the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) functions not only as the highest legal norm but also as the collective expression of the nation's values, institutional structure, and national direction. Its role as the supreme source of all laws embodies the principle of constitutional supremacy namely, the idea that all laws and state actions must be evaluated and validated against the constitution. In accordance with Article 1 paragraph (3) of the 1945 Constitution, which establishes Indonesia as a state governed by law (rechtstaat), all state authorities are legally obligated to comply with constitutional provisions both in legal texts and in actual practice (Nasoha et al., 2024).

Constitutional supremacy is a defining attribute of a democratic legal state. The constitution is not merely a normative script but a legally binding political and moral compass for all branches of government. It performs three key roles: as a check on state power, as a framework governing inter institutional relationships, and as a safeguard for fundamental rights of citizens. Therefore, the constitution transcends procedural regulation it functions as a normative foundation for ensuring substantive justice for all.

In Indonesia, the concrete realization of constitutional supremacy only began to materialize following the 1998 Reform era. During the New Order regime, the constitution was largely instrumentalized to justify authoritarian rule, concentrating power within the executive and limiting mechanisms of state accountability.

The post-reform period marked a shift, with four constitutional amendments significantly reinforcing the principle of constitutional supremacy. A major institutional reform was the establishment of the Constitutional Court in 2003 under Law No. 24 of 2003, later amended by Law No. 7 of 2020. This court was empowered to conduct constitutional review of legislation, resolve jurisdictional disputes between state institutions, adjudicate political party dissolutions, and oversee electoral result disputes thus institutionalizing mechanisms to uphold constitutional supremacy (Toloh, 2020).

However, practical implementation of this principle remains inconsistent. Numerous laws have been passed without regard for Constitutional Court decisions that previously invalidated similar provisions. This reflects a systemic disconnect between normative mandates and institutional behavior, and reveals a lack of constitutional commitment among legislative and executive actors (Mustikasari, 2024). In some cases, Constitutional Court rulings are not adequately enforced, diminishing its role as a constitutional guardian. For instance, in Decision No. 90/PUU-XXI/2023, the Court upheld the age requirement of 40 for presidential and vice-presidential candidates but provided exceptions for individuals with prior electoral mandates, such as regional heads. This ruling emphasized that rigid age limitations without equitable alternatives risk unjustly excluding qualified younger leaders (Hukumonline, 2023).

Another contributing factor to weak constitutional supremacy is the generally low level of constitutional awareness among both the public and state officials. In many governmental institutions particularly at the regional level knowledge of constitutional law remains limited. Legal education in Indonesia also tends to focus heavily on positive law and judicial precedent, with insufficient attention given to the substantive teaching of constitutional values. Yet in any growing democracy, constitutional literacy is critical for cultivating a participatory and principled legal culture (Abas et al., 2023). When the constitution is viewed merely as a technical text, divorced from ethical and political context, it becomes vulnerable to manipulation by short-term political interests.

Beyond internal institutional shortcomings, external political factors also hinder the enforcement of constitutional supremacy. Legal politicization, undue influence over law enforcement agencies, and institutional dependence arising from political economic ties weaken the principle of checks and balances. In such a climate, constitutional supremacy is not just a matter of normative hierarchy, but is closely tied to political will and stakeholder integrity. When legal institutions yield to political pressures, constitutional values are often compromised in favor of short-term stability. Thus, institutional reforms are crucial to strengthen key guardians of the constitution, including the Constitutional Court, Supreme Court, Judicial Commission, and Corruption Eradication Commission (KPK), particularly through improved governance and ethical oversight.

The urgency of reinforcing constitutional supremacy in Indonesia grows amid increasingly complex legal challenges, such as digital governance, land conflicts, and shifting social norms driven by globalization. In confronting these issues, the constitution must serve as the principal guide in formulating public policies that are just, sustainable, and respectful of human rights. A case in point is the Constitutional Court's review of the Mining Law (UU Minerba) and the Omnibus Law (UU Cipta Kerja), which were found to conflict with principles of public participation and environmental justice. Although these rulings did not nullify the laws in their entirety, they set a vital precedent for embedding democratic and sustainability principles in national legislation.

In conclusion, constitutional supremacy is a fundamental component of building a just, democratic, and dignified national legal system. The constitution must not be treated as the domain of legal elites or political institutions alone, but as a collective asset of the Indonesian people one that deserves to be upheld, respected, and internalized in all facets of national life. This study seeks to critically assess how far the principle of constitutional supremacy has been implemented in law enforcement practices in Indonesia. It also aims to examine the challenges faced in this regard and to propose strategic recommendations for strengthening the constitution's role in guiding state governance and legislative development.

RESEARCH METHODOLOGY

This study adopts a normative juridical research method, which relies primarily on legal literature and secondary data sources. This approach is particularly suitable for examining prevailing legal norms, especially in relation to how the principle of constitutional supremacy interacts with law enforcement practices in Indonesia. As noted by Kristiawanto (2022), the normative juridical method focuses on analyzing legal documents such as statutes, constitutions, and court rulings within the framework of the national legal system.

The research applies two main approaches. The first is the statutory approach, which involves an in-depth review of relevant legislation, including the 1945 Constitution of the Republic of Indonesia, Law No. 12 of 2011 concerning the Formation of Laws and Regulations, and various sectoral laws that serve as instruments for implementing constitutional supremacy in legal practice. The second is the conceptual approach, which investigates foundational legal theories and doctrines such as the rule of law, the concept of *rechtsstaat* (state based on law), and constitutional review mechanisms.

The data used in this study consist of primary, secondary, and tertiary legal materials. Primary legal sources include official legal texts such as legislation and decisions issued by the Constitutional Court, which form the core reference for evaluating the application of constitutional supremacy. Secondary legal materials comprise scholarly writings such as legal textbooks, academic journals, and expert commentaries which provide interpretive frameworks and doctrinal insights. Tertiary materials, including legal dictionaries and encyclopedias, support the clarification of legal terms and concepts.

The data were analyzed using a descriptive qualitative approach, which entails systematically describing, interpreting, and contextualizing legal norms to gain a comprehensive understanding of how constitutional supremacy is applied in Indonesia's legal system. The study also evaluates the degree of alignment between statutory laws and constitutional principles, and explores the extent to which judicial oversight particularly through the Constitutional Court has effectively upheld the constitution as the supreme legal norm.

RESULT AND DISCUSSION

The Concept of Constitutional Supremacy

Constitutional supremacy is a foundational principle in modern constitutional governance, emphasizing that the constitution holds the highest authority within the hierarchy of legal norms. This means that all statutory laws, governmental policies, and actions taken by state institutions must be consistent with the provisions of the constitution. The constitution is not merely a codified legal document containing the state's fundamental norms; it also functions as a normative instrument that regulates and constrains the exercise of state power while safeguarding the fundamental rights of its citizens (Anggyamurni et al., 2020).

In the Indonesian context, the supremacy of the constitution is explicitly affirmed within the state structure governed by the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). This foundational document not only serves as the highest legal source but also acts as a standard of legal validity for all subordinate legislation. Article 24C paragraph (1) of the Constitution grants the Constitutional Court the authority to review laws against the constitution, a judicial mechanism known as constitutional review. This institutional safeguard ensures that constitutional supremacy is not merely a theoretical principle, but a concrete element of legal practice.

The idea of constitutional supremacy is rooted in the legal doctrines of both common law and civil law traditions. In the United States, a common law system, the principle was firmly established through the landmark Supreme Court decision *Marbury v. Madison* (1803), which affirmed the judiciary's power to nullify legislation inconsistent with the constitution (Isharyanto, 2015). In civil law systems, such as those in Germany and Indonesia, this principle is institutionalized through specialized bodies like constitutional courts. In Indonesia, the acknowledgment of constitutional supremacy conveys two key implications: first, that the 1945 Constitution is the supreme legal norm; and second, that violations of the constitution by state institutions can be nullified through constitutional adjudication.

However, it is essential to recognize that the existence of the principle alone does not guarantee a constitutional order in practice. Effective realization of constitutional supremacy requires the integration of sound legal norms, competent institutions, and a culture that respects the rule of law. Violations of this principle can occur when laws are enacted without adequate constitutional review or when state actors exceed their constitutionally defined powers. Thus, the enforcement of constitutional supremacy ultimately depends on the effectiveness of constitutional oversight mechanisms and the extent to which state actors internalize and uphold the values embedded in the constitution (Agustine, 2019).

The Role of the Constitutional Court in Upholding Constitutional Supremacy

The Constitutional Court (Mahkamah Konstitusi, or MK) was established as a direct outcome of the 1998 reform movement, aimed at reinforcing the rule of law and ensuring the Constitution remains the highest legal authority within Indonesia's constitutional framework. As a key guardian of constitutional supremacy, the Court plays a pivotal role in ensuring that all legislative acts and government policies comply with the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). Under Article 24C of the Constitution, the Court is entrusted with several powers, including judicial review of laws, adjudicating disputes between state institutions, deciding on the dissolution of political parties, and resolving electoral disputes. Among these, judicial review is perhaps the most critical tool for maintaining the alignment of statutory law with constitutional principles.

In practice, the Constitutional Court has significantly contributed to rectifying legal provisions deemed to infringe upon citizens' constitutional rights. A notable example is Decision No. 138/PUU-VII/2009, where the Court annulled certain clauses of Law No. 25 of 2007 on Investment, citing concerns over threats to national economic sovereignty and violations of the principle of social justice. This ruling underscores that even economic legislation must conform to constitutional standards and cannot solely cater to foreign investment interests or market forces (Umar & Sofyan, 2023).

Beyond its judicial review function, the Court also plays an interpretive role by clarifying ambiguous constitutional provisions. Frequently, the Court adopts a progressive and substantive approach to constitutional interpretation rather than adhering strictly to formalistic legal reasoning. For instance, in Decision No. 46/PUU-VIII/2010 concerning the status of children born outside of legal marriage, the Court affirmed that such children possess civil rights in relation to their biological fathers. This progressive interpretation aligns with Article 28B of the Constitution, highlighting the Court's commitment to child protection and a more humanistic, socially responsive approach to legal development (Palguna & Gede, 2021).

Nevertheless, the Court's effectiveness in ensuring constitutional supremacy is often undermined by implementation challenges. One major issue is the reluctance of legislative and executive bodies to enforce or follow up on Constitutional Court decisions. In several cases, the Court's rulings have not been promptly translated into legislative amendments or policy adjustments. For example, although Law No. 4 of 2009 on Mineral and Coal Mining (UU Minerba) was conditionally declared unconstitutional by the Court in Decision No. 10/PUU-XII/2014, the implementation of this ruling faced significant political and bureaucratic resistance at the ministerial level (Sari, 2023). This demonstrates that while the Court has the legal authority to invalidate legislation, the actual realization of constitutional supremacy often hinges on the political will of other state institutions.

Furthermore, the credibility of the Constitutional Court also depends on the integrity and professionalism of its justices. The appointment of constitutional judges conducted by the President, the House of Representatives (DPR), and the Supreme Court must prioritize merit, independence, and clean track records. Ethical violations involving justices, such as the bribery scandal surrounding former Chief Justice Akil Mochtar, have damaged the Court's public legitimacy (Roring, 2025). Consequently, improving the selection and oversight mechanisms for justices is crucial to maintaining the Court's integrity and authority as a constitutional guardian.

In a constitutional democracy, the Constitutional Court serves not only as a legal arbiter but also as a protector of democratic values, human rights, and social justice, as enshrined in both the preamble and the body of the 1945 Constitution. This strategic role positions the Court as the final safeguard against the misuse of power by other branches of government. Strengthening the authority, capacity, and independence of the Constitutional Court is thus a vital part of broader efforts to uphold constitutional supremacy in Indonesia.

Challenges in Implementation

The practical enforcement of constitutional supremacy in Indonesia faces multifaceted challenges, both regulatory and institutional. A major obstacle lies in the inconsistency of laws and regulations. Numerous derivative legal instruments such as Government Regulations (PP), Presidential Regulations (Perpres), and Ministerial Regulations often fail to reflect, or even contradict, the core principles of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). This discrepancy is largely due to weak harmonization between laws and a lack of substantive oversight in the legislative process. In several instances, legislative bodies have ignored the Constitutional Court's final and binding decisions, allowing laws that should have been annulled or revised to remain in force (Maufiroh et al., 2021).

Another significant issue is the limited constitutional literacy among law enforcement officials. Judges, prosecutors, and police officers frequently interpret statutes literally without considering the underlying constitutional values that should guide legal interpretation. This narrow legal positivism undermines the Constitution's role as the highest source of legitimacy within the legal system. The problem is compounded by the absence of continuous, in-depth constitutional education for legal practitioners.

Additionally, the general public's limited understanding of constitutional law presents a further challenge. At all levels of formal education from primary to tertiary constitutional studies are not sufficiently emphasized as a moral and legal foundation of citizenship. As a result, citizens often lack awareness of their constitutional rights and are ill equipped to defend them when violated by state institutions or other actors. Civic education tends to focus on rote memorization of legal texts rather than fostering critical thinking about the structure and functioning of the state. Consequently, this low level of constitutional awareness weakens public participation in monitoring the actual application of constitutional supremacy.

Efforts to Strengthen Constitutional Supremacy

Enhancing constitutional supremacy within Indonesia's legal framework is a strategic initiative to ensure that all state powers operate in alignment with the fundamental principles enshrined in the 1945 Constitution of the Republic of Indonesia. A key step in this direction involves reinforcing the role of the Constitutional Court as the ultimate protector of the constitution. This can be achieved by not only strengthening the Court's authority to review laws against the Constitution but also by ensuring effective enforcement of its decisions by relevant state institutions. It is crucial to understand that the success of judicial review lies not merely in the annulment of unconstitutional norms but also in the concrete adherence of lawmakers and the government to the Court's rulings.

Furthermore, constitutional review should be institutionalized as a standard procedure in all legislative processes, including the drafting of laws and their implementing regulations. By mandating constitutionally oriented legal policies, the state can prevent the emergence of conflicting norms from the outset. This preventive mechanism may include the establishment of constitutional assessment bodies within both the legislative and executive branches (Rahayu, 2020).

Equally important is the need to cultivate public awareness of constitutional values. Constitutional education must extend beyond formal academic settings, incorporating legal outreach programs, capacity-building for state officials, and early integration into school curricula. These efforts aim to create a constitutionally literate society capable of critically and actively monitoring the exercise of public power (Awaluddin & Ambon, 2020).

Lastly, strengthening the system of checks and balances among state institutions remains essential. An effective inter-institutional oversight mechanism minimizes the risk of power abuse. In this regard, the legislative, executive, and judicial branches must maintain equilibrium, ensuring mutual control without allowing any single entity to dominate. Reconfiguring institutional authority and reinforcing constitutional principles in oversight functions are critical to safeguarding a democratic state governed by the rule of law.

CONCLUSION

The supremacy of the constitution stands as a core tenet in Indonesia's legal framework, positioning the 1945 Constitution of the Republic of Indonesia (UUD 1945) as the paramount legal authority. This principle serves as the foundation to ensure that all forms of legislation, government policies, and state actions align with constitutional mandates. The Constitutional Court plays a pivotal role as the guardian of the constitution through its authority to conduct judicial reviews and provide authoritative interpretations, ensuring that statutory laws conform to the values and principles embedded in the UUD 1945.

Despite its importance, the practical enforcement of constitutional supremacy still encounters considerable challenges. These include inconsistencies between statutory regulations and the constitution, limited constitutional literacy among law enforcement and judicial officials, and the general public's lack of awareness regarding their constitutional rights. Such issues indicate a notable disparity between the constitutional norms and their actual implementation within the legal system.

To address this gap, strategic and systemic efforts must be undertaken to reinforce the constitutional order. These include enhancing the authority and enforceability of Constitutional Court decisions, integrating constitutional compliance assessments during the legislative drafting process, promoting constitutional education from an early age, and strengthening the system of checks and balances among state institutions. Only through such comprehensive measures can constitutional supremacy evolve beyond a normative ideal into a functional and tangible principle guiding the rule of law and the administration of a democratic and just state.

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