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Title of Paper: The ‘weak court and weak remedy’ of the Indonesian Constitutional Court

Abstract:

The current issue of the Indonesian Constitutional Court is its inconsistency both in theory and practice. It has a power of constitutional review. It can review statutes for conformity with the Constitution which is explicitly contained in the Constitution. On paper, the judicial review power is a strong-form which means the Court decision is final and binding. In other words, both the President and Legislature are obligated to respect and follow the Court’s decisions. Nevertheless, in practice the Chief Justices of the Constitutional Court have exercised a policy of weak-form review in order to lessen the friction with the government, making the Court decisions more politically palatable. The Court’s decision may be exercised by the political institutions, but fails to provide strong remedy for public demands. This article argues that the Court should uphold ‘the fidelity of law’ rather than straying in a lacuna of compromised constitutional politics. In doing so, the Court needs support system. This article will scrutinize the opportunities while also realistically presenting the hurdles of the Court’s autonomy.