THE ROLE OF INDONESIA CONSTITUTIONAL COURT DECISION IN THE PROCESS OF ESTABLISHING THE LAW: A CASE STUDY IN THE PROCESS OF ESTABLISHING THE LAW ON GENERAL ELECTIONS

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ABSTRACT

This paper examines the role of the Constitutional Court's decision in the process of harmonization/formation of the law. This research was conducted with the method of normative legal research by using library materials, legal materials and non-legal materials by using a statutory approach and a conceptual approach. From the results of the research conducted, it turns out that the Constitutional Court's decision related to the judicial review of the Act has a very large role in the process of harmonization/formation of the Law. If the legislators in formulating their norms ignore the Constitutional Court's decision, then the norms of the law can be said to be unconstitutional and have the potential to be submitted for judicial review. Law norms that accommodate the Constitutional Court's decision in addition to fulfilling constitutionality values and avoiding judicial review, will also be accepted by the wider community and apply effectively and efficiently.

Keywords: Judicial Review, Constitutional Court Decision, Constitutional Legislation

INTRODUCTION

As one of the result of reformation, the Constitutional Court of the Republic of Indonesia (MK) was born, which was outlined in the Amendment of 1945 Constitution. One of the functions of the Constitutional Court is to ensure that every law (UU) does not conflict with the constitution. In reference, the position of the Constitutional Court is not only as an institution to examine the constitutionality of a law, but also as an institution that guarantees the constitutional rights of citizens on the results of legislation that deviates from the people's fundamental aspirations (Ginsburg, 2003). Therefore, the authority of the Constitutional Court in reviewing the Law against the 1945 Constitution must also to be understood as an external control in the legislative process (Isra, 2010).

The control in the form of a judicial review by the Constitutional Court shows a very close relationship between the Constitutional Court and the legislative process. Theoretically, the concept can be considered as a substitute for the need for another chamber in the legislature (Isra, 2010). Vicky C. Jackson & Mark Tushnet mentioned the concept of judicial review as the third chamber in the legislative process: “As a description of function, the constitutional court exercising politically initiated abstract review can be conceptualized profitably as a third legislative chambers whose behavior is nothing more or less than the impact-direct and indirect-of constitutional review an legislative outcomes.” (Jackson & Tushnet, 2006) Furthermore, the opinion of Vicky & Mark above is strengthened by Bogdanovskaia who stated: “The bodies of

the constitutional review have become important element influences on the law making. Sometimes the position of these bodies is opposite to the position of the parliament ang government and often the position of the constitutional review dominant. The constitutional courts play an important role in the modern legal system" (Bogdanovskaia, 1999).

Therefore, the concept of judicial review in the legislative process is very clear, namely as a counterweight to legislation products, both after being approved by the legislature and after being ratified into law (Isra, 2010). Even in a similar case, judicial review is said to be a mean to purify laws produced by the legislature so that they do not conflict with the constitution (Isra, 2010). Without control from the judiciary and with strong political interests in the legislature, it is very possible for the law to harm the interests of the community. So that institutions such as the Constitutional Court are urgently needed in the legislative process, as expressed by Hans Kelsen, "recognized the need for an institution with power to control or regulate legislation" (Ferejohn, 2002).

In Indonesia, the involvement of the Constitutional Court in the legislative process is based on the authority of the Constitutional Court in the provisions of Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that "the Constitutional Court has the authority to judge at the first and final level whose decisions are final to examine the Act against the Constitution…etc." In examining the constitutionality of a law, the Constitutional Court is given the authority to carry out 2 types of examinations, namely formal examinations and material examinations. Furthermore, in carrying out the examination, the Constitutional Court stated firmly the contents of paragraphs, articles, and/or parts of the Law that were contrary to the 1945 Constitution of the Republic of Indonesia. When the Constitutional Court declared a law to be contrary to the 1945 Constitution and considering the Constitutional Court's decision which was final and binding, then the principle of *erga omnes* is prevailed, the decision is binding and must be obeyed by every citizen. then in the process of forming the next law, the norms must not conflict with the intent that has been decided by the Constitutional Court. As a result, if in the subsequent formation of the Law norms are contrary to the intent that has been decided by the Constitutional Court, it can become the basis for re-examining the article in question and cancelling the article. Thus, the presence of the Constitutional Court which is given the authority to conduct a judicial review directly affects the legislative process in Indonesia. On that basis, Law no. 12 of 2011 concerning the Establishment of Legislation as amended by Law no. 15 of 2019 regulates the content that must be regulated in the law, one of which is the follow-up to the Constitutional Court's decision, where the follow up on the Constitutional Court's decision is the assistant to the Law (DPR or the President) to then be initiated into a Law or amendment to the Law. Likewise with the preparation of the National Legislation Program (Prolegnas), the Constitutional Court's decision is included in the Prolegnas list which is included in the open cumulative list, meaning that the Constitutional Court's decision can be used as an excuse for the initiator to initiate the formation of a law outside the Prolegnas. The formulation of the problem raised in this study is how important it is that the Constitutional Court's decision is used as a consideration by lawmakers in formulating legal norms.

METHODS

This research is a normative legal research that uses library materials, legal materials and non-legal materials using a statutory approach and a conceptual approach and produces a descriptive-analytical-juridical study.

ANALYSIS AND DISCUSSION

The Effect of Judicial Review in the Legislation Process in Indonesia

The term judicial review is actually a technical term from common law system of United States that was put forward by Jerome Barron & Thomas. It means the authority of the judiciary

to overturn any government action that is contrary to the constitution (Barron & Thomas, 1986). Therefore, judicial review is one way to guarantee civil rights in a diametrical position with the power to make laws. More specifically regarding the testing of legal products issued by the legislature, judicial review is a phenomenon that goes hand in hand with the development of the idea of a democratic state. Until now, this thought continues to grow, especially after the basic idea was born by John Marshall who later gave birth to the term judicial review. Meanwhile, in its institutionalization, Hans Kelsen, stated that in the legislative process "recognized the need for an institution with power to control or regulate legislation" (Ferejohn, 2002). The basic idea is to purify the products of legislation issued by the legislators. Hans Kelsen further emphasized that the judiciary has the authority to cancel a law or declare a law not legally binding. In carrying out this function, the holder of judicial power acts as a negative legislator (Kelsen & Trevino, 2017). Furthermore, Hans Kelsen stated: The power to examine the laws as to their constitutionality and to invalidate unconstitutional law may be conferred, as a more or less exclusive function, on a special constitutional court… The possibility of a law issued by legislative organ being annulled by another organ constitutes a remarkable restriction of the former's power. Such a possibility means that there is, besides the positive, a negative legislator. An organ which may be composed according to a totally different principle form that of the parliament elected by the people (Kelsen & Trevino, 2017).

This idea then became the basis for special powers to control the results of legislation issued by the legislature. Then, Bojan Bugaric viewed that Hans Kelsen's idea was an attempt to bring up positive legislators played by the parliament, while the negative legislator model played by the Constitutional Court (Bugaric, 2001). Then, Laica Marzuki, still referring to Hans Kelsen's opinion, also emphasized that when the constitutional court is a negative legislator, then the parliament that produces the law is called a positive legislator. In that sense, Laica Marzuki asserted, not only parliament has a legislative function but also a constitutional court (Marzuki, 2007).

However, in contrast to Hans Kelsen, John Farejohn & Pasquale Pasquino stated, when a constitutional court strikes down a statute, it is not only legislating in negative sense of abolishing a law but, insofar as it must reconstruct the legal situation before the statute, legislating positively as well (Maravall & Przeworski, 2003). The opinion of John Farejohn and Pasqquale Pasquino essentially emphasizes that in the process of forming the law, the Constitutional Court not only functions as a negative legislator but also as a positive legislator. Even in explaining the significance of judicial review in the legislative process, Vicky C. Jackson & Mark Tushnet stated that when constitutional judges review the results of the legislative process, the decision-making process is closer to the legislative process itself (Jackson & Tushnet, 2006) Even so important is the role of judicial review in the legislative process, Vicky C. Jackson & Mark Tushnet mention judicial review as the third chamber in the legislative process.

Control in the form of judicial review becomes very important, especially when the majority power in the legislature is a supporter of the President. In a position like this, judicial review can be said as a means to carry out purification (purification) of laws produced by the legislature. When the power in the legislature is overwhelmingly the support of the President, it is very likely that the product of the law is a political agreement among most members of the representative institutions. In fact, it is very possible that the decision will be made through voting. In practice, legal norms where decisions are made by voting are often difficult to implement and it is even possible that the decisions taken can be detrimental to the community. Therefore, institutions such as the Constitutional Court are needed in the legislative process.

In the legislative process in Indonesia, there are three influences with the judicial review authority of the Constitutional Court. First, the judicial review authority of the Constitutional Court directly applies the purification and control model of the second chamber judicial review to the legislation model. The Constitutional Court through judicial review has purified laws that are contrary to basic norms (constitution). At the same time, the Constitutional Court has become the controller for the legislative power in terms of the possibility of formal and

substantial errors in the legislative process (Isra, 2010). Of the many laws that have been tested by the Constitutional Court, at least there have been fundamental changes or minor changes to several laws that have been produced by the legislators as a form of purification/purification of the legislative work of the DPR and the Government. Several forms of the Constitutional Court's decision in this purification concept are: (1) granting the petition submitted by the applicant in its entirety; (2) granting part of the application submitted by the applicant; (3) granting the petitioner's request broadly (*ultra petita*), namely granting more than what is requested by the applicant; (4) grant it with a delay in its implementation; and (5) granting the application with conditions (conditionally constitutional or conditionally unconstitutional) (Isra, 2010).

Second, the Constitutional Court's decision encourages the formation of legislation that places the Constitutional Court as one of the important factors in the national legislation program (Prolegnas) (Isra, 2010). For example, Law no. 12 of 2011 concerning the Establishment of Legislation as amended by Law no. 15 of 2019 and Presidential Regulation No. 87 of 2014 concerning Implementing Regulations of Law no. 12 of 2011 concerning the Establishment of Legislations shows the Constitutional Court's decision as one of the determining factors in the function of legislation. According to such laws, the Constitutional Court's decision is included as a criterion in determining the open cumulative list in the Prolegnas, where the Constitutional Court's decision can be used as an excuse for the initiator to initiate the formation of a law outside the National Legislation Program. Prolegnas contains an open cumulative list consisting of: a) ratification of international agreements; b) as a result of the Constitutional Court's decision; c) State Revenue and Expenditure Budget; d) establishment, expansion, and merger of Provinces and/or Regency/City areas; and e) stipulation/revocation of Government Regulation in Lieu of Law. With the phrase "due to the Constitutional Court's decision" in the provision, the results of the examination in the Constitutional Court will have a direct impact on the workload of legislation. Therefore, it can be said that the implications of the Constitutional Court's decision must be the main consideration for lawmakers when harmonizing laws, both during discussions in the government and during discussions in the DPR.

Third, it has given rise to the principle of prudence (prudence) of the law-forming parties when discussing the draft law (Isra, 2010). In the practice of discussing the draft law, especially during the harmonization process, the decision on the application for judicial review has become a factor that influences the normalization of the law. Law makers have become more careful in formulating the substance/norms of the law. Since the birth of the Constitutional Court, lawmakers have always taken into account the possibility of a judicial review request. Thus, the legislators have become more careful in formulating their norms because of concerns if the formulation of the norms is submitted for judicial review to the Constitutional Court. From the description above, to make a more concrete picture of the impact of the Constitutional Court's decision on the judicial review process, it can be studied from the decision on the judicial review application that has been issued by the Constitutional Court. In general, the impact of the Constitutional Court's decision can be seen in two categories, namely direct impact and indirect impact.

What is meant by direct impact is the consequences that arise immediately after the Constitutional Court's decision is issued. The impact of this decision is clearly seen when the Constitutional Court acts as a negative legislator by cancelling the validity of the material content in paragraphs, articles and/or parts of the Law, and even cancelling the validity of the entire Law. Until now, there are several laws that have been cancelled based on the Constitutional Court's decision, namely: Law no. 27 of 2004 concerning the Truth and Reconciliation Commission (Constitutional Court Decision Number 006/PUU-IV/2006), Law no. 20 of 2009 concerning Electricity Constitutional Court Decision Number 001-021-022/PUU-I/2003), Law no. 9 of 2009 concerning Educational Legal Entities (Constitutional Court Decision Number 11-14-21=126-136/PUU-XI/2013), Law no. 17 of 2012 concerning Cooperatives (Constitutional Court Decision Number 28/PUU-XI/2013), Law no. 7 of 2004 concerning Water Resources (Constitutional Court Decision Number 85/PUU-XI/2013), Law

no. 4 of 2014 concerning the Second Amendment of Law no. 24 of 2003 concerning the Constitutional Court (Constitutional Court Decision Number 1-2/PUU-XII/2014). Meanwhile, what is meant by indirect impact is that the Constitutional Court's decision does not automatically apply. There are stages and follow-up processes from the Constitutional Court's decision. The variation of the Constitutional Court's decision which has an indirect impact is very diverse. A study has mapped the variation in the diversity of the Constitutional Court's decisions. In this study, the Constitutional Court's decision was categorized into 5 models, namely: 1) a model of a decision that is legally null and void; 2) conditionally constitutional decision model; 3) conditionally unconstitutional decision model; 4) decision model that delays the enforcement of the decision (limited constitutional); and 5) decision models that formulate new norms. The types of decision models in categories 2) to 5) are groups of decisions that do not have a direct impact. In a comparative approach, the same research was conducted by Christian Behrendt. His research discusses the decision models developed by the Constitutional Court in Belgium, France and Germany where judicial decisions contain orders to the parliament to formulate legislation in accordance with and based on the said decision. This decision model is called injunctions. In his final conclusion, Behrendt clearly stated that there was no other choice but to ignore the legislator's negative theory. This conclusion directs that the role of the courts which has been so large in the legislative process emphasizes the position of the courts which are also positive legislators. The arguments above show that the Constitutional Court's decision greatly influences the legislative process in Indonesia, especially in giving signals to lawmakers so that in carrying out their legislative authority, lawmakers should pay attention to the substance that has been ruled unconstitutional by the Constitutional Court. In this position, it is hoped that legal products that meet constitutional values and have a long life will be created because the chances for judicial review to the Constitutional Court are smaller.

Legislation Not Considering the Constitutional Court's Decision (Case Study of Election Law)

Based on observations, many decisions of the Constitutional Court give “homework” to lawmakers (DPR and the President) to change laws or take initiatives to form new laws as a result of the Constitutional Court's decision. One that shows the involvement of the Constitutional Court in the legislative process is the Constitutional Court's decision related to the examination of the electoral law, namely the legislative election law, executive election and election organizers.

During the years 2003-2015, it was recorded that 110 times the laws related to elections were submitted for constitutional review to the Constitutional Court. Details of the electoral law testing data are described in the following table.

Table 1
Examination of Election Law

Laws examined by the Constitutional Court	Amount
Legislative Election	**Total: 57**
Law No. 12 of 2003	7
Law No. 10 of 2008	18
Law No. 17 of 2009	1
Law No. 8 of 2012	31
Presidential election	**Total: 39**
Law No. 23 of 2003	8
Law No. 42 of 2008	33
Elections	**Total: 14**
Law No. 2 of 2007	4

Law No. 11 of 2011	11
Grand Total	**110**

From a total of 110 judicial review requests related to the election law submitted to the Constitutional Court, 23 of them were granted by the Court (either partially or a whole) and the decreed norms were declared to have no binding legal force. Thus, after the Constitutional Court's decision, the election law makers must consider several decisions issued by the Constitutional Court. Apart from being a necessity, this is also a demand from the need to create legal products that fulfill constitutional values. In addition, taking into account the Constitutional Court's decision in formulating the norms of the electoral law, it is hoped that the electoral law will have a long life and last a long time as a regulation that regulates elections. The current practice of the electoral law has always been short-lived, almost following the five-year election period. This happened because many provisions of the electoral law were canceled by the Constitutional Court and the potential to be sued again to the Constitutional Court against different provisions was very large because they were considered contrary to the constitution. Therefore, almost every election that will be held, the regulations are changed or replaced. By considering the Constitutional Court's decision at the time of harmonizing the draft law, it is hoped that the regulations regarding elections will not be subject to a constitutional review of the Constitutional Court.

In the discussion of draft laws in the DPR, what often happens is that political considerations or interests are more prominent than considerations of constitutionality based on the Constitutional Court's decision. This is very reasonable because it must be understood that the DPR is a political institution so that the Law is not only a legal product but also a political product. Therefore, it is also very natural if the provisions in the Law prioritize the political aspect rather than the juridical/constitutional aspect.

The government has submitted the Bill on the Implementation of General Elections to the DPR on October 21, 2016. This bill is an amalgamation of 3 laws at once which is made into 1 Law, namely Law no. 42 of 2008 concerning the General Election of President and Vice President, Law no. 15 of 2011 concerning General Election Organizers, and Law no. 8 of 2012 concerning General Elections for Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council. This bill consists of 543 articles and 6 books. The method of merging several laws into one law is commonly known as regulatory simplification. In implementing this regulatory simplification, it can be taken through the Omnibus Law approach. The formation of the law through the omnibus law approach is carried out by forming 1 new law that combines various substances regulated in 1 or more laws and the new law simultaneously revokes several laws whose substance is combined with their regulations, both in whole and only certain article(s).

Based on the bill proposed by the government to the DPR, research results from the Code Initiative research institute stated that of the 523 articles submitted, 22 articles had the potential to violate the constitution. This conclusion was drawn because the substance of the 22 articles was similar to the articles in the old law which had been submitted for judicial review to the Constitutional Court and declared unconstitutional but were revived in the Bill on Election Administration. In the study, it was stated that the unconstitutional articles that were revived in this bill later attracted public attention because in fact the norm actually had no legal force because it had been declared contrary to the 1945 Constitution of the Republic of Indonesia by the Constitutional Court. The problematic articles can be grouped into 9 qualifications related to: 1) organizers; 2) candidate requirements; 3) electoral system; 4) women's representation; 5) requirements of political parties in the nomination of Presidential/Vice Presidential Candidates; 6) a ban on campaigning during quiet times; 7) campaign sanctions provisions; 8) timing of follow-up/continued elections; and 9) DKPP's decision related to the ethics of election organizers.

The research conducted by the KODE Initiative above shows that the Election Implementation Bill, which is an initiative of the Government and has been submitted to the

DPR, has not fully paid attention to and followed up on the Constitutional Court's decision. Thus, it can be said that the Bill on the Implementation of Elections still contains norms that are unconstitutional. Therefore, if the formulation of unconstitutional norms in the Election Implementation Bill is approved by the DPR, then it is very likely that if it is passed into law, a judicial review will be submitted again to the Constitutional Court. The process of forming good legislation is a process that considers and even accommodates the decision of the Constitutional Court so that the law that is passed is constitutional. After going through a fairly intense discussion of the Bill on the Implementation of General Elections, the substance of the Bill was approved by the DPR and its title was agreed to become the Law on General Elections. The law was promulgated on August 16, 2017 as Law no. 7 of 2017 concerning General Elections (State Gazette of the Republic of Indonesia Year 2017 No. 182, Supplement to the State Gazette of the Republic of Indonesia No. 6109). This law is a merger or simplification of 3 laws at once into 1 law, namely Law no. 42 of 2008 concerning the General Election of President and Vice President, Law no. 15 of 2011 concerning General Election Organizers, and Law no. 8 of 2012 concerning General Elections for Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council. This law is also the legal basis for simultaneous elections. This law consists of 573 articles (when the bill was 543 articles) and 6 books, namely: Book One General Provisions consists of 2 chapters from Article 1 - Article 5; The Second Book of Election Organizers consists of 3 chapters from Article 6 - Article 166; The Third Book of Election Implementation consists of 18 chapters from Article 167 - Article 453; Book Four Election Violations, Election Process Disputes, and Election Results Disputes consists of 3 chapters from Articles 454 -Article 475; The Fifth Book of Election Crimes consists of 2 chapters from Article 476 – Article 554; The Sixth Book Closing of Article 555 - Article 573.

After doing research, the formulation of the articles of Law no. 7 of 2017 concerning General Elections, in general, many have accommodated the Constitutional Court's decisions related to the judicial review of several laws governing elections. As an example, we can compare the formulation when it was still in the form of a Bill on Election Administration and the norm after it became a Law on Elections. The provisions of Article 14 paragraph (1) letter I of the Bill on the Implementation of Elections which still determine: "resign from membership of a political party, political position, position in government, BUMN/BUMD when registering as a candidate." This formulation is exactly the same as the norm in the previous law, even though the Constitutional Court Decision No. 81/PUU-IX/2011 states that the phrase “resigned from membership of a political party…at the time of registration” is unconstitutional and has no binding force as long as it does not mean “at least within 5 years you have resigned from membership of a political party at the time of registration. as a candidate. After going through discussions in the DPR, the legislators accommodated the Constitutional Court's decision no. 81/PUU-IX/2011 and its complete formulation are contained in Article 21 paragraph (1) letter I of Law no. 7 of 2017 concerning General Elections which reads: "resign from political party membership for at least 5 (five) years at the time of registering as a candidate." Thus, the legislators have accommodated the decision of the Constitutional Court and the norms of Article 21 paragraph (1) of Law no. 7 of 2017 has fulfilled the constitutionality values so as to avoid judicial review to the Constitutional Court.

The Urgency to Consider the Constitutional Court's Decision in the Formation of the Election Law

In order to maintain the constitutionality of the Law on Elections, the main step that must be taken is to harmonize the Bill on Elections with the Constitutional Court decisions that have been issued related to electoral issues. The Bill on the Implementation of Elections initiated by the Government is a simplification of 3 laws at once, namely Law no. 42 of 2008 concerning the General Election of President and Vice President, Law no. 15 of 2011 concerning General Election Organizers, and Law no. 8 of 2012 concerning General Elections for Members of the

People's Representative Council, Regional Representative Council, and Regional People's Representative Council. In relation to this election law, there have been 23 decisions of the Constitutional Court which have canceled it. Therefore, to avoid a judicial review to the Constitutional Court, the makers of the electoral law must consider and follow up on the Constitutional Court's decision regarding the previous election law. It is hoped that by accommodating and following up on the Constitutional Court's decision at the time of the formation of the law, the norms in the law are not unconstitutional so that the chance for testing is very small. The accommodation and follow-up to the Constitutional Court's decision is a consequence of the Constitutional Court's decision which is final and binding and is erga omnes. Thus, it can be said that the Constitutional Court's decision is the same as a constitutional order. This is also a consequence of the role of the Constitutional Court as the guardian institution and the sole interpreter of the constitution so that the Constitutional Court's decision in the constitutional review of a law must be understood as the intent of the constitution itself. Therefore, if there is a law whose constitutionality has been decided by the Constitutional Court, the formation of the next law must not conflict with the intent that has been decided by the Constitutional Court.

In the framework of the formation of the electoral law, the role of the Constitutional Court's decision is very important in order to create a legal product (UU) that fulfills the values of constitutionality. In addition, taking into account the Constitutional Court's decision in the formation of the electoral law, it is hoped that the regulatory age in the electoral field is longer, not only valid for 5 years or even less. So far, based on my experience, the Constitutional Court's decision regarding the review of a law has become the main reason for the harmonization process. Considering the Constitutional Court's decision in the process of harmonizing the electoral bill is the right step taken by lawmakers because one of the ways in harmonization is to harmonize the laws that are being drafted with jurisprudence or court decisions (MK) related to the judicial review of laws. In addition to fulfilling the principle of constitutionality of the law, harmonization with the Constitutional Court's decision is also to fulfill the principles of the formation of a good PUU, especially the principle of implementation and the principle of usability and usability. Considering the decision of the Constitutional Court in harmonizing the electoral law is also a form of good faith by the legislators. Because without the control of the judiciary (MK) political power in the legislature has the potential to include temporary political interests, so it is very possible that the laws produced will harm the interests of the community. In addition, considering the Constitutional Court's decision in the harmonization of the electoral law can also be said as a substitute for "other rooms" in the legislative body and is also a way to provide guarantees for the people so as not to create legislative results that deviate from the people's fundamental aspirations. Thus, considering the decision of the Constitutional Court, either directly or indirectly, can be an external control tool in the legislative process.

From the arguments above, it appears that the Constitutional Court's decision is very influential in the legislative process in Indonesia, especially in giving signals to lawmakers so that in carrying out their legislative authority they should pay close attention to the substance that has been ruled unconstitutional by the Constitutional Court. By properly considering the Constitutional Court's decision, it is hoped that a legal product (laws) will fulfill the values of constitutionality, is accepted by the wider community, has a long life, and is effective and efficient.

CONCLUSION

From the description above, it can be concluded that the position of the Constitutional Court is not only as an institution to examine the constitutionality of a law, but also as an institution that guarantees the constitutional rights of citizens on the results of legislation that deviates from the people's fundamental aspirations. Therefore, the authority of the Constitutional Court in reviewing laws against the 1945 Constitution of the Republic of Indonesia is also understood as

external control in the legislative process. There are three forms of influence of the presence of the Court's judicial review authority in the legislative process in Indonesia. First, the judicial review authority of the Constitutional Court directly applies the model of purification and control of the "other room" judicial review of the Act. Second, the Constitutional Court's decision encourages the formation of a PUU which places the Constitutional Court as one of the important factors in harmonization (formation) of the Law. Third, the Constitutional Court's decision raises the principle of prudence (prudence) for the law-forming parties when discussing the bill. Paying attention to and at the same time accommodating the Constitutional Court's decision in the formation of the election law will create electoral regulations that meet constitutionality values, are able to maintain the age of the law itself and eliminate or reduce the occurrence of judicial review to the Constitutional Court so that the resulting law is accepted by the wider community and can be effective and efficient.

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