

## Legal Politics of Constitutional Complaint: Prospects for Implementation of the Indonesian Legal System

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**Abstract:** The concept of constitutional complaints is becoming increasingly crucial in the protection of fundamental rights. In Indonesia, the authority of the Constitutional Court (MK) is currently limited to reviewing laws, resolving election disputes, dissolving political parties, and resolving disputes over the jurisdiction of state institutions. Consequently, there is a legal vacuum in protecting the rights of citizens violated by actual acts or omissions of state officials that are not related to the constitutionality of laws. This article examines the legal politics behind the absence of constitutional complaints in Indonesia as well as the prospects for their implementation. Using a normative legal approach and comparative analysis with Germany, South Korea, and Thailand, this study explores the role of this instrument in safeguarding citizens' rights, preventing abuse of power, and strengthening judicial independence. The research findings indicate that the adoption of constitutional complaints in Indonesia would expand access to justice, align the legal system with international human rights standards, and affirm the Constitutional Court's role as the guardian of the constitution. Nevertheless, challenges such as political resistance, the risk of a surge in caseload, and institutional readiness must be addressed through careful design. The constitutional complaint is not merely a prospective legal reform but a constitutional necessity to realize a democratic, participatory, rights-based state and to strengthen public confidence in the rule of law.

**Keywords:** Legal Politics; Constitutional Complaint; Prospects; Legal System.

### Introduction

The significance of constitutional protection in modern democracies is multifaceted, encompassing the safeguarding of individual rights, the enforcement of checks and balances, the promotion of democratic governance, and the provision of mechanisms for accountability. The framework provided by constitutions plays a pivotal role in enhancing stability, legitimacy, and responsiveness within democratic societies. Firstly, constitutions serve as the foundation for safeguarding constitutional rights, with judicial review being a critical mechanism in this process. Satria's study demonstrates that judicial review allows courts to assess the constitutionality of legislation and governmental actions, thereby protecting individual rights and curbing governmental abuses of power.<sup>1</sup>

Moreover, constitutions delineate the division and exercise of power, which is fundamentally essential to the operation of democracy. Kravets explains that modern constitutional mechanisms aim to institutionalize protective branches of government that can intervene to uphold

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<sup>1</sup> Satria, R, 'Judicial Review And Its Role In Safeguarding Constitutional Rights In Modern Democracies', Educational Journal Of History And Humanities, N.D., <https://doi.org/10.24815/Jr.V8i1.44832>

democratic principles when necessary.<sup>2</sup> The role of constitutions in protecting human rights within democratic frameworks is vital. Firmansyah and Budiyo highlight the importance of the Indonesian Constitution's framework for human rights and democracy, asserting that constitutions must explicitly safeguard these rights alongside governance structures.<sup>3</sup>

Constitutional protection in modern democracies is critical for providing a structured framework through which rights are recognized, power is balanced, and democracy is upheld. This is evident through the roles of judicial review, the institutional design of government branches, and the incorporation of human rights within constitutional frameworks, all of which together form the foundation of effective democratic governance.<sup>4</sup>

Absence of a constitutional complaint mechanism within the jurisdiction of Indonesia's Constitutional Court has become a pressing issue that necessitates a deliberate examination. Current frameworks reveal that citizens often face barriers when seeking redress for violations of their constitutional rights, significantly affecting their access to justice and the protection of fundamental freedoms within the democratic fabric of the nation.

One of the foundational challenges presented in the literature is the lack of explicit statutory authority for the Constitutional Court to address constitutional complaints. Mahfiana and Lisma elucidate how Indonesian law currently lacks a regulatory framework that empowers the court to process constitutional complaints, indicating a significant gap in legal provisions that compromises citizens' rights to constitutional protection.<sup>5</sup> Additionally, Palguna highlights that a substantial number of cases that petitioners wish to bring forward encapsulate constitutional complaints, suggesting an empirical demand for reform. However, the present authority of the court does not allow for the adjudication of these types of claims, thus limiting the court's role.<sup>6</sup>

Comparative insights regarding the implementation of constitutional complaint mechanisms in other jurisdictions further underscore the necessity for such a mechanism in Indonesia. Awanisa et al. argue for the adaptation of similar mechanisms within Indonesia's legal framework, suggesting that doing so would align with international human rights standards while fostering a more responsive judiciary committed to protecting citizens' constitutional rights.<sup>7</sup>

Based on the background and conclusion of this study, the research is guided by the following questions: How the urgency of regulating constitutional complaints in the Indonesian

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<sup>2</sup> Igor A Kravets, "Unnamed And/Or Unnumbered Branches Of Government In Comparative Constitutional Jurisprudence: Prospects For Their Institutionalization: Book Review: Tushnet M. The New Fourth Branch: Institutions For Protecting Constitutional Democracy.", *Sravnitel' Noe Konstitucionnoe* Cambridge; New York: Cambridge University Press, 2021, *Obozrenie*(5), 31:95-126., N.D., <https://Doi.Org/10.21128/1812-7126-2022-5-95-126>

<sup>3</sup> Firmansyah Firmansyah And Budiyo Budiyo, 'The Role Of Constitution In A Democratic System And Human Rights Protection In Indonesia', *Pancasila And Law Review* 5, No. 1 (2025): 39-46, <https://Doi.Org/10.25041/Plr.V5i1.3659>

<sup>4</sup> Eric Che Muma, 'Transformative Constitutionalism In Post-Colonial Africa: A Framework For Democracy And Human Rights Protection', *International Journal Of Emerging Trends In Social Sciences* 3, No. 1 (2018): 29-45, <https://Doi.Org/10.20448/2001.31.29.45>

<sup>5</sup> Layyin Mahfiana And Lisma Lisma, 'Quo Vadis Constitutional Complaint In Indonesia: Authority And Discretion Of Constitutional Judges/Quo Vadis Constitutional Complaint Di Indonesia: Antara Kewenangan Dan Diskresi Hakim Konstitusi', *De Jure: Jurnal Hukum Dan Syaria* 13, No. 1 (2021), <https://Doi.Org/10.18860/J-Fsh.V13i1.11574>

<sup>6</sup> I Dewa Gede Palguna, 'Constitutional Complaint And The Protection Of Citizens The Constitutional Rights', *Constitutional Review* 3, No. 1 (2017): 1, <https://Doi.Org/10.31078/Consrev311>

<sup>7</sup> Agsel Awanisa Et Al., 'The Position Of Constitutional Complaint In The Constitutional Court Of The Republic Of Indonesia', *Pancasila And Law Review* 2, No. 1 (2021): 61-78, <https://Doi.Org/10.25041/Plr.V2i1.2308>

legal system as part of legal and constitutional reform? What are the prospects and challenges—political, legal, and institutional—in implementing a constitutional complaint mechanism in Indonesia to strengthen democracy and the rule of law?

## Method

This study employs a normative legal method combined with a comparative law approach. Through the normative legal method, an in-depth analysis is conducted of constitutional provisions, legislation, and legal doctrines relevant to the discourse on constitutional complaints in Indonesia. The primary focus is to examine the alignment between the current constitutional framework and the urgency of establishing a constitutional complaint mechanism as part of the legal and constitutional reform agenda.

The comparative law approach is used to analyze the experiences of other countries that have successfully implemented this mechanism, specifically Germany, South Korea, and Thailand. By comparing the systems in these three countries, this study aims to identify various models, benefits, and challenges that can serve as valuable lessons for Indonesia. The integration of these two approaches yields a comprehensive analysis that not only explores the theoretical and normative foundations but also assesses the practical feasibility and prospects for its adoption into the Indonesian legal system.

## Results and Discussion

### Conceptual Framework of Constitutional Complaint

The concept of a constitutional complaint mechanism is increasingly recognised as vital for ensuring the protection of individual rights within modern democracies. In the context of Indonesia, the constitutional jurisdiction has not fully embraced such a mechanism; however, a comprehensive framework can be envisioned, rooted in the principles of judicial independence, the separation of powers, and the safeguarding of fundamental rights.

The constitutional complaint mechanism allows individuals to seek judicial redress when they believe their constitutional rights have been violated. This mechanism empowers citizens and strengthens democratic governance by enabling direct access to constitutional courts for adjudicating complaints about state actions or legislation that infringe upon their rights. Habib discusses the centrality of judicial review in safeguarding fundamental rights, emphasizing the role of courts in protecting these rights through established complaint mechanisms and judicial review processes. This aligns with international practices where constitutional courts play a critical role in interpreting rights enshrined in constitutions, creating a foundation for a robust complaint system.

The role of the Indonesian Constitutional Court must be expanded to include this mechanism. Ahmad indicates that as the guardian of the 1945 Constitution of the Republic of Indonesia, the Constitutional Court has the authority to issue various legal documents integral to maintaining the rule of law.<sup>8</sup> Therefore, incorporating a constitutional complaint mechanism within its jurisdiction could significantly enhance the Court's role in protecting citizens' constitutional rights and addressing grievances related to governmental abuses. Hasim reiterates this perspective, noting that judicial review is

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<sup>8</sup> Andi Ahmad, 'Analysis Of The Legal Outputs Of State Institutions: The Case Of The Constitutional Court Of The Republic Of Indonesia', *Enigma In Law* 1, No. 2 (2024): 36–40, <https://doi.org/10.61996/Law.V1i2.35>

fundamental to the functions of constitutional courts as it allows for examination of legislative and executive actions.<sup>9</sup>

Comparative insights can further inform the development of this mechanism in Indonesia. For example, Satriawan and Mokhtar emphasize the importance of reviewing disputes among state organs, arguing that a constitutional complaint framework could enhance the court's capacity to resolve such disputes effectively. While Menéndez discusses the broader implications of constitutional jurisdiction as a means for interpreting and evolving constitutional norms, Satriawan and Mokhtar specifically focus on the operationalization of constitutional complaints to engage with citizen rights.<sup>10</sup>

Successful integration of a constitutional complaint mechanism in Indonesia requires an analysis of potential challenges and a commitment to judicial independence. It is crucial to ensure that advancements do not invite politicization of the judiciary or undermine the separation of powers. The complexities of drafting appropriate legislation to empower this mechanism must be navigated with attention to historical context and contemporary constitutional debates.

The establishment of a constitutional complaint mechanism within Indonesia's Constitutional Court is not merely an administrative endeavor but a critical step toward reinforcing individual rights and upholding the principles of democracy. By adopting this framework, Indonesia can align itself more closely with global standards of constitutionalism, enhancing citizen participation in governance and ensuring that its rights are adequately protected.

### **Definition and Theoretical Foundation of Constitutional Complaint.**

A constitutional complaint can be understood as the mechanism through which an individual claims that their constitutional rights have been infringed due to actions or omissions by public authorities. This provides a crucial recourse for citizens, enabling them to challenge the constitutionality of laws or actions directly affecting their rights. The essence of this complaint lies in its role as a remedy designed to uphold constitutional guarantees and enhance the system of checks and balances within the state. As articulated by Chakim, "the constitutional complaint is one of the important constitutional court jurisdictions that can be described as a complaint or lawsuit filed by any person who deems his or her rights have been violated by an act or omission of public authority".<sup>11</sup> This highlights the importance of the institutional capacity to adjudicate individual claims, reinforcing the constitutional framework's integrity.

The theoretical foundation for constitutional complaints rests primarily on the principles of the rule of law, judicial independence, and the protection of fundamental rights. The establishment of a constitutional complaint mechanism is often seen as essential for the effective enforcement of constitutional norms. While Azevedo and Bell focus on equitable decision-making in other

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<sup>9</sup>Fuad Hasim, "Constitutional Court Ruling Number 90/PUU-XXI/2023 Regarding Aspects of Human Rights." *ANAYASA: Journal of Legal Studies* 1.2 (2024): 121-134. <https://doi.org/10.61397/ays.v1i2.98>

<sup>10</sup> Ignacio Villaverde Menéndez, "Amending by interpreting: the constitutional jurisdiction as amendment power." *International Journal of Human Rights and Constitutional Studies* 8.1-2 (2021): 65-79. <https://doi.org/10.1504/IJHRC.S.2021.113757>

<sup>11</sup> M. Lutfi Chakim, 'A Comparative Perspective On Constitutional Complaint: Discussing Models, Procedures, And Decisions', *Constitutional Review* 5, No. 1 (2019): 096 <https://Doi.Org/10.31078/Consrev514>

contexts,<sup>12</sup> the incorporation of complaint mechanisms within a constitutional court's jurisdiction allows citizens to actively participate in the enforcement of their rights, thereby fostering a more robust democratic culture.

Underpinning constitutional complaints often embodies notions of justice and equity, ensuring individuals can have their grievances addressed without political or bureaucratic obstruction. This is essential for maintaining public trust in governmental institutions and protecting minority rights. Systems lacking such complaints may foster disenfranchisement and alienation among citizens, undermining democratic values.

In different contexts, the mechanism operates under various theoretical models. For example, Germany has a well-established system for constitutional complaints, providing a comparative framework for assessing different legal traditions.<sup>13</sup> These models suggest that a valid constitutional complaint system encompasses three key theoretical elements: (1) Legal Framework: Specifying the procedures and criteria for filing complaints, which must include a clear definition of the rights that are enforceable in constitutional terms; (2) Judicial Oversight: Ensuring that the courts have the authority to interpret and apply constitutional norms in a manner that is accessible and transparent to the public; (3) Access and Participation: Facilitating citizen participation in the judicial process as a means to enhance accountability, where individuals can assert their rights without facing excessive barriers, as emphasised in studies relating to access to justice frameworks.<sup>14</sup>

A constitutional complaint serves fundamentally as a tool for individuals to invoke their constitutional rights when they feel these rights have been infringed upon by state actions or legislative measures. This mechanism allows individuals to contest particular legislative acts and strengthens personal legal standing to claim that specific laws negatively affect their rights. The existence of this procedural right reinforces the principle that individuals are active participants in the governance of their rights, providing a direct channel for judicial intervention.

The constitutional complaint system is particularly significant in environments where standard judicial avenues may not sufficiently address violations of rights. The creation of constitutional courts after World War II was largely a response to the inadequacies of ordinary judicial processes in protecting people's rights amid authoritarian regimes. This highlights the historical and structural necessity of a specialized mechanism that can prioritize fundamental rights and ensure they receive effective protection.

Surrounding constitutional complaints encompass critical concepts within constitutional law. Hanara discusses how constitutional complaints create mechanisms for holding state bodies accountable for actions that may infringe upon personal liberties.<sup>15</sup> Additionally, the normative value of constitutional complaints embodies principles of judicial independence and the rule of law, which are crucial for democracy and the protection of rights. This framework illustrates an inherent

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<sup>12</sup> Andrew Bell Lauren Azevedo, 'Equitable Decision-Making In Community Foundations', Wiley Research De&I Statement And Publishing Policie, N.D., <https://Doi.Org/10.1002/Nml.21643>

<sup>13</sup> M. Lutfi Chakim, 'A Comparative Perspective On Constitutional Complaint: Discussing Models, Procedures, And Decisions', *Constitutional Review* 5, No. 1 (2019): 096 <https://Doi.Org/10.31078/Consrev514>

<sup>14</sup> Pan Mohamad Faiz, 'A Prospect And Challenges For Adopting Constitutional Complaint And Constitutional Question In The Indonesian Constitutional Court', *Constitutional Review* 2, No. 1 (2016): 103, <https://Doi.Org/10.31078/Consrev215>

<sup>15</sup> Viktor Shemchuk, et al. "Prospects of Transformation of the Institution of Constitutional Justice in the Course of Armed Conflicts." *Cuestiones Políticas* 40.75 (2022). <https://Doi.Org/10.46398/cuestpol.4075.26>

commitment to protecting citizens' constitutional rights against arbitrary or disproportionate state action.<sup>16</sup>

Constitutional complaint mechanism aligns with broader human rights frameworks, which reinforce the importance of ensuring equal protection under the law for marginalized and vulnerable groups. Jamaluddin emphasizes that constitutional guarantees for human rights are integral to maintaining social justice and providing mechanisms for institutional accountability. This promotes an environment where individuals can seek justice without fear of retaliation or discrimination, embodying a just legal order that remains accessible to all citizens.<sup>17</sup>

Insights from various countries reveal differing approaches to constitutional complaints, yet they underline the universal importance of such mechanisms. For instance, the Turkish Constitutional Court's adoption of a constitutional complaint mechanism has facilitated more direct engagement of citizens in the judicial process, significantly enhancing the court's ability to adjudicate human rights issues within a robust legal context.<sup>18</sup> The effectiveness of these methodologies in various jurisdictions underscores the critical capacity of constitutional complaints to influence meaningful changes in governance and rights protection.

Indonesian context, integrating a constitutional complaint mechanism into the functioning of the Constitutional Court is essential for enhancing judicial responses to rights violations.<sup>19</sup> Given the imperative for legal systems to evolve concurrently with societal needs, establishing this mechanism in Indonesia could present significant advancements in the protection of human rights and in promoting a more participatory governance model. Distinction between constitutional review, constitutional complaint, and other legal remedies is crucial for understanding the mechanisms through which individuals may seek justice in instances of rights violations. Each of these legal approaches serves different purposes within the framework of constitutional law and governance, impacting how constitutional rights are protected.

Constitutional review refers to the process through which legislative and executive actions are evaluated against constitutional standards by a specialized court, typically a constitutional court. This review can be abstract or concrete. In abstract review, the court assesses the constitutionality of a law without it being tied to a specific case – this often encompasses general reviews of legislation before or after enactment. For example, Awanisa et al. illustrate that constitutional review may allow courts to proactively declare laws unconstitutional based on their inconsistency with constitutional provisions.<sup>20</sup>

Conversely, concrete review occurs in response to a specific legal case where the constitutionality of a law is challenged as it is applied. The court reviews the law's relevance and

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<sup>16</sup> Ágnes Váradi, 'Access To Constitutional Complaint Procedures: A Real Chance?: Remarks On The Availability Of Legal Aid In Constitutional Court Procedures In Austria, Germany And Hungary', *Hungarian Journal Of Legal Studies* 61, No. 4 (2022): 372–85, <https://doi.org/10.1556/2052.2021.00307>

<sup>17</sup> Nataliia Brovko, et al. "The role of the constitutional complaint in the legislative process: Comparative legal aspect." (2021). <https://doi.org/10.46398/cuestpol.3969.51>

<sup>18</sup> M. Lutfi Chakim, 'A Comparative Perspective On Constitutional Complaint: Discussing Models, Procedures, And Decisions', *Constitutional Review* 5, No. 1 (2019): 096 <https://doi.org/10.31078/Consrev514>

<sup>19</sup> Pan Mohamad Faiz, 'A Prospect And Challenges For Adopting Constitutional Complaint And Constitutional Question In The Indonesian Constitutional Court', *Constitutional Review* 2, No. 1 (2016): 103, <https://doi.org/10.31078/Consrev215>

<sup>20</sup> Agsel Awanisa Et Al., 'The Position Of Constitutional Complaint In The Constitutional Court Of The Republic Of Indonesia', *Pancasila And Law Review* 2, No. 1 (2021): 61–78, <https://doi.org/10.25041/Plr.V2i1.2308>

application in the context of that particular case, determining its constitutional validity.<sup>21</sup> This type of review can only proceed once an actual dispute arises, making it inherently more responsive to immediate legal realities than abstract review.

A constitutional complaint, on the other hand, is an avenue available to individuals who believe that a specific action by the state has violated their constitutional rights. This is a personal grievance procedure, allowing citizens to bring claims directly before the constitutional court. As noted by Faiz, the constitutional complaint mechanism is essential for citizens to actively pursue justice when they believe their constitutional rights have been infringed, providing a direct form of legal recourse.<sup>22</sup> In systems where this mechanism is implemented, it is often seen as a critical complement to other legal remedies, ensuring that individual rights can be defended in court.<sup>23</sup>

For instance, in Indonesia, the introduction of a constitutional complaint mechanism is advocated to enhance the capabilities of the Constitutional Court to address individual rights violations.<sup>24</sup> This mechanism distinguishes itself from judicial review by emphasizing the role of individual citizens in instigating review based on personal harm from state actions. Legal remedies often encompass a broader range of options outside constitutional courts, including administrative appeals, civil lawsuits, and criminal proceedings. Administrative appeals allow individuals to contest administrative decisions made by governmental agencies, focusing on procedural irregularities or abuses rather than constitutional violations.<sup>25</sup> These appeals can be integral in verifying that public administrations operate within their lawful boundaries, but they do not engage directly with constitutional principles.

Additionally, civil lawsuits provide another avenue for redress, allowing individuals to seek damages or injunctions if they believe their rights have been violated within the legal framework of tort or contract law. These remedies may address specific grievances but do not inherently evaluate the constitutionality of the actions in question. Globally, the scope and structure of constitutional review and complaint mechanisms vary significantly. In European countries, as noted by Chakim, constitutional courts often integrate both complaint mechanisms and review powers, reflecting a blend that prioritizes both individual rights and statutory oversight.<sup>26</sup> In contrast, models seen in countries like Indonesia are evolving, suggesting an urgent need to adopt constitutional complaint structures to fill gaps in existing legal frameworks.<sup>27</sup>

## Comparative Study of Constitutional Complaint in Selected Jurisdictions

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<sup>21</sup> Abdul Hakim Siagian. "Constitutional Complaint as Strengthening Constitutionalism in Indonesia." *Randwick International of Social Science Journal* 1.3 (2020): 486-498. <https://doi.org/10.47175/rissj.v1i3.102>

<sup>22</sup> Pan Mohamad Faiz, 'A Prospect And Challenges For Adopting Constitutional Complaint And Constitutional Question In The Indonesian Constitutional Court', *Constitutional Review* 2, No. 1 (2016): 103, <https://Doi.Org/10.31078/Consrev215>

<sup>23</sup> Abdul Hakim Siagian. "Constitutional Complaint as Strengthening Constitutionalism in Indonesia." *Randwick International of Social Science Journal* 1.3 (2020): 486-498. <https://doi.org/10.47175/rissj.v1i3.102>

<sup>24</sup> Sri Warjiyati Et AL., 'Complaint Authority For Constitutional Complaint By Indonesia' *Tms Constitutional Court*, *Jurnal Ius Kajian Hukum Dan Keadilan* 10, No. 2 (2022): 303-15, <https://Doi.Org/10.29303/Ius.V10i2.1070>

<sup>25</sup> L.N. Gumilyov Eurasian National University Et AL., 'Administrative Appeal As A Legal Process: Meaning And Role', *Bulletin Of L.N. Gumilyov Eurasian National University. Law Series* 145, No. 4 (2023): 119-26, <https://Doi.Org/10.32523/2616-6844-2023-145-4-119-126>

<sup>26</sup> M. Lutfi Chakim, 'A Comparative Perspective On Constitutional Complaint: Discussing Models, Procedures, And Decisions', *Constitutional Review* 5, No. 1 (2019): 096 <https://Doi.Org/10.31078/Consrev514>

<sup>27</sup> Agsel Awanisa Et AL., 'The Position Of Constitutional Complaint In The Constitutional Court Of The Republic Of Indonesia', *Pancasila And Law Review* 2, No. 1 (2021): 61-78, <https://Doi.Org/10.25041/Plr.V2i1.2308>

## 1. Historical Development and Functional Design of Germany's Constitutional Court

Federal Constitutional Court of Germany Bundesverfassungsgericht serves as a pivotal institution in the protection of fundamental rights and the upholding of constitutional law within the country. Its historical development and functional design provide crucial insights into its role as a guardian of democratic values and human rights in Germany.

The establishment of the Federal Constitutional Court in 1951 arose from the aftermath of World War II and reflects the lessons learned from the totalitarian regimes that preceded democracy in Germany. As Borowski elucidates, the foundational goal was to create an autonomous judiciary that could act as a counterbalance to the legislative and executive branches of government.<sup>28</sup> This was crucial for ensuring that the experiences of oppression and legal manipulations prevalent under the Nazi regime would not be repeated. The constitutional court model was influenced by the need for judicial independence and was inspired by similar institutions in other democratic nations like the United States and Italy.

The German Basic Law (Grundgesetz), adopted in 1949, enshrined fundamental rights and delineated the court's function in interpreting these rights. Over the decades, the Federal Constitutional Court has evolved, acquiring the authority to conduct both abstract and concrete reviews, which empowers the court to assess not only the constitutionality of statutes but also their impact on individual rights in specific cases.<sup>29</sup> This dual capability underscores the court's significant role in both proactive and reactive judicial oversight. The functional design of the Federal Constitutional Court is characterized by its jurisdictional frameworks that facilitate the adjudication of constitutional complaints and the review of legislation and government actions. The court hears cases related to constitutional disputes, including challenges to the compatibility of laws with the Basic Law and complaints lodged by individuals whose rights have been violated.

1. Constitutional Complaint: One of the most significant mechanisms provided to citizens is the constitutional complaint (Verfassungsbeschwerde). This allows individuals to lodge complaints alleging that their constitutional rights have been violated by public authorities, as highlighted in studies examining the efficiencies and processes of constitutional legal actions.<sup>30</sup> Unlike many legal systems where individuals might face barriers to challenge state actions, the German model empowers citizens to directly approach the constitutional court, which is crucial for safeguarding individual rights.
2. Legislative Review: The court also conducts legislative reviews, where it can annul laws that conflict with the constitution. This process not only reinforces the rule of law but also ensures that citizens' rights remain paramount in the face of legislative acts that could detract from these rights.<sup>31</sup> The interrelationship between the Federal Constitutional Court and European legislations, particularly through its dialogues with the European Court of Justice, demonstrates

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<sup>28</sup> Borowski, Martin. "The beginnings of Germany's federal constitutional court." *Ratio Juris* 16.2 (2003): 155-186. <https://doi.org/10.1111/1467-9337.00230>

<sup>29</sup> Nge Nge Aung. "The basis of constitutional adjudication in Germany." (2022). <https://doi.org/10.25041/fiatjustisia.v16no1.2419>

<sup>30</sup> I Dewa Gede Palguna, 'Constitutional Complaint And The Protection Of Citizens The Constitutional Rights', *Constitutional Review* 3, No. 1 (2017): 1, <https://Doi.Org/10.31078/Consrev311>

<sup>31</sup> Erich Vranes. "German constitutional foundations of, and limitations to, EU integration: A systematic analysis." *German Law Journal* 14.1 (2013): 75-112. <https://doi.org/10.1017/S207183220001723>

how Germany's constitutional framework interacts with broader European human rights protections.<sup>32</sup>

3. **Balancing Authority:** A notable aspect of the functional design is the court's role in balancing between state autonomy and public rights. This balancing act allows the court to navigate complex cases where individual rights conflict with societal interests, thereby playing a crucial role in maintaining democratic principles in light of evolving political landscapes.<sup>33</sup> As chronicled by Vranes, this balancing function is essential in shaping not only domestic laws but also Germany's stance on European integration and constitutional compatibility.<sup>34</sup>
4. **Judicial Independence:** The design also emphasizes judicial independence, ensuring that the court operates without undue influence from political entities. This is reinforced through the court's appointments and terms for justices, which aim to insulate the judiciary from partisan pressures.<sup>35</sup> The establishment of procedural norms that guide how cases are processed ensures a transparent and fair hearing for all parties involved.

## 2. Integration of Constitutional Adjudication in South Korea

The integration of constitutional adjudication in South Korea represents a critical aspect of the country's democratic evolution, particularly following its transition to democracy in the late 20th century. This integration has significantly influenced the protection of individual rights and the rule of law, making the Constitutional Court a pivotal institution in South Korean governance.

The Constitutional Court of South Korea was established in 1988 as a product of the constitutional reforms that emerged from the pro-democracy movements of the 1980s. The Constitution of 1987 marked a watershed moment, terminating decades of authoritarian rule and emphasizing civil rights, democracy, and the separation of powers. From its inception, the Court was tasked with various functions, including the adjudication of constitutional complaints, the interpretation of the constitution, and the review of the constitutionality of statutes.

This historical backdrop is crucial for understanding how constitutional adjudication has evolved within South Korea's unique political landscape. As Tsai points out, the political structure has remained complex, with varying influences from civil society, the legislature, and executive powers shaping the Court's role. The empowerment of the Constitutional Court coincided with a broader societal shift towards democratic engagement, further legitimizing its decisions and making human rights protection a priority in South Korean governance.

The functional design of the South Korean Constitutional Court has embraced several key mechanisms to facilitate its role in adjudication:

1. **Constitutional Complaints:** Individuals can file constitutional complaints if they believe their constitutional rights have been infringed by state actions. This mechanism allows for direct access to the judiciary, ensuring that citizens can hold the government accountable. In practice, this

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<sup>32</sup> Erich Vranes. "German constitutional foundations of, and limitations to, EU integration: A systematic analysis." *German Law Journal* 14.1 (2013): 75-112. <https://doi.org/10.1017/S2071832200001723>

<sup>33</sup> Nge Nge Aung. "The basis of constitutional adjudication in Germany." (2022). <https://doi.org/10.25041/fiatjustisia.v16no1.2419>

<sup>34</sup> Erich Vranes. "German constitutional foundations of, and limitations to, EU integration: A systematic analysis." *German Law Journal* 14.1 (2013): 75-112. <https://doi.org/10.1017/S2071832200001723>

<sup>35</sup> Borowski, Martin. "The beginnings of Germany's federal constitutional court." *Ratio Juris* 16.2 (2003): 155-186. <https://doi.org/10.1111/1467-9337.00230>

accessibility has enabled a diverse range of cases, from freedom of expression to privacy rights, to be litigated, reflecting the evolving demands of a democratic society .

2. **Constitutional Review:** The Court conducts both abstract and concrete reviews. Abstract reviews involve assessing laws independently of specific cases, acting preventively against potential unconstitutional statutes. Concrete reviews are directly tied to specific legal disputes, giving citizens a tool to challenge the application of laws as they relate to their rights. This bifocal approach allows the Court to effectively manage a significant volume of cases while also upholding constitutional integrity.
3. **Balancing Powers:** The Court's function is also rooted in its ability to balance the powers of the legislative and executive branches. In periods of political strife or executive overreach, the Constitutional Court has played an essential role in maintaining checks and balances, thereby strengthening democratic governance. This has been particularly relevant during instances of political corruption and unrest, where the Court's rulings have supported democratic practices and restored public confidence in legal institutions.

South Korea's constitutional adjudication varies across different dimensions:

1. **Protection of Rights:** The Court has proven effective in protecting civil liberties, with landmark rulings that have expanded freedoms of expression, assembly, and association. For example, the Court's ruling on anti-communist legislation was pivotal in affirming rights protections against state overreach, illustrating its role in bolstering democratic principles through judicial interpretation.
2. **Public Engagement:** The ability of citizens to initiate constitutional complaints has generated a higher level of public engagement with the judiciary. This empowerment has fostered a culture of rights awareness among South Koreans, leading to increased societal demand for accountability and transparency within government.
3. **Political Dynamics:** However, the effectiveness of the Constitutional Court is not without challenges. As political dynamics shift, so too does the Court's independence come under scrutiny. The potential for political influences to impact judicial decisions can threaten the perceived neutrality. Moreover, the complexities of South Korea's political system sometimes complicate the Court's function, particularly when there is a lack of consensus among political factions regarding judicial authority.

Thailand: adoption and challenges in the Southeast Asian context

Constitutionalism in Thailand has undergone significant changes since the first constitution was promulgated in 1932, which marked the transition from an absolute monarchy to a constitutional monarchy. The current Constitution, enacted in 2017, formalizes the structure of the Constitutional Court, which is tasked with significant authority concerning constitutional interpretation and the protection of rights. As Dressel and Bunte note, Thailand's constitutional landscape has been affected by a series of political upheavals, military coups, and constitutional amendments, which have influenced the development of its constitutional complaint mechanisms.

The Thai Constitutional Court has been established to adjudicate constitutional disputes and protect citizens' rights. It possesses the authority to review the constitutionality of laws and acts by public authorities, making it critical in maintaining checks and balances within the political sphere. The introduction of constitutional complaint mechanisms aligns with global trends aimed at

enhancing judicial remedies for individuals whose rights have been compromised, thereby indicating a growing recognition of the importance of legal remedies in democratic governance.

Despite these positive developments, Thailand faces several challenges in the effective implementation and operation of its constitutional complaint mechanisms. One primary challenge is the potential politicization of the judiciary, where external pressures and political interests may undermine the independence and impartiality of the Constitutional Court. This concern is particularly relevant within the Southeast Asian context, where various states struggle with maintaining democracy amid shifting political dynamics. The unique diversities within the region have historically resulted in varying approaches to constitutionalism and judicial authority, complicating regional efforts towards cohesive legal standards.

Additionally, accessibility remains a significant barrier for many citizens seeking to utilize constitutional complaint mechanisms. The costs associated with legal representation and a lack of public awareness regarding constitutional rights can deter individuals from pursuing grievances through the judicial system. Engel discusses how regulatory frameworks often prioritize institutional needs over citizen accessibility, further marginalizing vulnerable populations who may lack the economic means or legal knowledge to engage effectively with the judicial system.

Overlap between judicial and legislative powers can present significant operational challenges. As noted by Demeter et al., addressing the integration of constitutional complaint processes into existing bureaucratic systems necessitates careful design to ensure that citizens' rights are effectively protected without infringing upon legislative authority. This tension between maintaining judicial independence and ensuring proper legislative functioning is a recurring theme across Southeast Asia, underscoring the need for reforms that support both judicial and legislative integrity.

Compared to other Southeast Asian nations, Thailand's approach to constitutional complaints demonstrates both progress and setbacks relative to regional norms. Countries such as Indonesia have also established constitutional courts, albeit with differing scopes and mandates that may better facilitate individual rights protection. The variability in constitutional frameworks across Southeast Asia illustrates deep-rooted historical, social, and political complexities, suggesting that regional harmonization in constitutional practices remains a distant goal.

Engagement with international norms and practices may offer pathways for Thailand to enhance its constitutional adjudication processes. While Azhgaliyeva and Mishra focus on renewable energy policy, their analysis holds relevance by illustrating the potential of learning from successful models in other regions to inform local practices and increase the efficacy of legal frameworks in addressing citizens' rights. Collaboration within the Association of Southeast Asian Nations (ASEAN) may also play a role in shaping regional standards for constitutional governance, offering opportunities for shared learning and best practices.

### **3. Legal Politics of Constitutional Complaint in Indonesia**

Legal politics surrounding the constitutional complaint mechanism in Indonesia reflect a significant evolution in the judicial landscape since the reform era, when the necessity for robust legal remedies for citizens was increasingly acknowledged. Constitutional complaints allow

individuals to challenge state actions or laws that infringe upon their constitutional rights, thereby being pivotal in safeguarding democracy and upholding the rule of law.<sup>36</sup>

Constitutional complaints serve as a critical tool within the Indonesian legal framework, enabling citizens to request judicial review of legislative or executive actions that they believe violate their constitutional rights. As outlined by Awanisa et al., while the Constitutional Court currently lacks explicit authority to process constitutional complaints, the mechanism is essential in creating opportunities for citizens to seek accountability. The court's decisions can influence public policy and have broader implications on democratic governance, as noted by Salam and Kurniasih, who emphasize the court's role in maintaining constitutional supremacy and protecting democratic principles.<sup>37</sup>

Indonesian Constitutional Court was established to adjudicate disputes related to electoral results, the dissolution of political parties, and the constitutionality of laws. Thohir and Sukriono articulate that the authority of the Constitutional Court is defined under Article 24C of the 1945 Constitution, which stipulates the court's powers regarding these key constitutional matters. Despite this solid foundation, the lack of an explicit constitutional complaint mechanism contributes to a gap in citizens' ability to assert their rights directly in court. Chakim argues that adopting such a mechanism could enhance the court's role in protecting constitutional rights and align it more closely with global standards.<sup>38</sup>

Implementation of a constitutional complaint mechanism in Indonesia faces several challenges. One significant issue is the politicization of the judiciary. The interplay between the judicial and political realms often raises concerns about impartiality, particularly in politically sensitive cases. Rishan highlights potential conflicts of interest among judges, creating doubts about the impartiality of judicial processes.<sup>39</sup>

Additionally, practical barriers exist, including limited public awareness of constitutional rights and difficulties in navigating the judicial system. Etra et al. emphasize that for citizens to effectively utilize constitutional complaints, there must be widespread understanding and access to legal recourse, which currently poses a challenge in Indonesia.<sup>40</sup> Note that reforms are necessary to empower individuals to effectively utilize the constitutional complaint system and strengthen the protection of constitutional rights.<sup>41</sup>

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<sup>36</sup> Shelli Nur Salam. "Implikasi Putusan Mahkamah Konstitusi terhadap Demokrasi di Indonesia: Studi Yuridis-Normatif." *Perkara: Jurnal Ilmu Hukum Dan Politik* 3.1 (2025): 788-806. <https://doi.org/10.51903/perkara.v3i1.2331>

<sup>37</sup> Thohir, Moh, and Didik Sukriono. "Implementation Authority of the Constitutional Court in the Indonesian Constitutional Law System." *Awang Long Law Review* 6.2 (2024): 346-352. <https://doi.org/10.56301/awl.v6i2.1112>

<sup>38</sup> M. Lutfi Chakim, 'A Comparative Perspective On Constitutional Complaint: Discussing Models, Procedures, And Decisions', *Constitutional Review* 5, No. 1 (2019): 096 <https://Doi.Org/10.31078/Consrev514>

<sup>39</sup> Idul Rishan, 'Doubting The Impartiality: Constitutional Court Judges And Conflict Of Interest', *Jurnal Jurisprudence* 12, No. 1 (2022): 92-105. <https://Doi.Org/10.23917/Jurisprudence.V12i1.1058>

<sup>40</sup> Agusniwan Etra Et Al., 'Application Of The Concept Of Justice As Fairness In Limiting The Voting Rights Of Former Convicts To Run For Elected Public Officials', *International Journal Of Health Sciences, Ahead Of Print*, 21 September 2022, <https://Doi.Org/10.53730/Ijhs.V6ns8.12892>

<sup>41</sup> Sri Warjiyati Et Al., 'Complaint Authority For Constitutional Complaint By Indonesia's Constitutional Court', *Jurnal Ius Kajian Hukum Dan Keadilan* 10, No. 2 (2022): 303-15, <https://Doi.Org/10.29303/Ius.V10i2.1070>

## Historical overview of constitutional reforms and the establishment of the Constitutional Court

The journey towards constitutional reform began with the fall of President Suharto in 1998, which marked the start of the Reformasi movement aimed at democratizing Indonesia after decades of authoritarian rule. Amidst a growing demand for political accountability and human rights protection, the 1945 Constitution was amended in four stages between 1999 and 2002. These amendments aimed to address decades of centralized power and inadequate protections for individual rights.<sup>42</sup>

One of the most significant outcomes of these amendments was the establishment of the Constitutional Court in 2003. This court was designed to interpret constitutional provisions and ensure the supremacy of the Constitution as the highest legal authority. By empowering the court with the authority to review the constitutionality of laws and adjudicate disputes regarding elections, the amendments firmly placed it as a guardian of constitutional democracy.<sup>43</sup>

Amendments brought about key changes to articles of the 1945 Constitution, particularly Article 1, which asserts that sovereignty rests with the people. This fundamental change reinforced the democratic foundation of the state and emphasized that all power must be exercised based on constitutional principles. Additionally, the inclusion of a Bill of Rights underscored the commitment to human rights and protection against discrimination, representing a paradigm shift in Indonesia's approach to governance and law.

Constitutional Court was established with a mandate to handle cases related to the constitutionality of laws, disputes among state institutions, and electoral disputes. Thohir and Sukriono elaborate on the authority granted to the Constitutional Court, which allows it to issue binding decisions. The court plays a crucial role in maintaining checks and balances within the government and safeguarding civil rights. However, its effectiveness has often been debated in terms of accessibility and public awareness of constitutional rights.

Introduction of the Constitutional Court marks a significant shift from traditional judicial practices in Indonesia, where such powers were concentrated in the executive branch. The Constitutional Court not only underscores the commitment to democracy but also provides a mechanism for citizens to challenge state actions that infringe upon their constitutional rights. As recorded by Darmadi, judicial review was previously a taboo subject under Suharto's regime, but is now a fundamental aspect of Indonesia's legal system.

Despite these reforms, the journey has not been without challenges. The politicization of the judiciary and concerns over judicial independence remain pressing issues. There are also challenges in ensuring that the court's rulings are effectively implemented, as Hasani et al. note regarding the "undelivered constitutional justice" in many cases. Moreover, public access to judicial processes and legal representation continues to be a significant barrier.

Moving forward, it is essential for Indonesia to not only strengthen its constitutional court but also to enhance legal awareness among citizens to improve the effectiveness of constitutional complaints and ensure greater accountability within the government. The experience of the

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<sup>42</sup> Moh Thohir and Didik Sukriono. "Implementation Authority of the Constitutional Court in the Indonesian Constitutional Law System." *Awang Long Law Review* 6.2 (2024): 346-352. <https://doi.org/10.56301/awl.v6i2.1112>

<sup>43</sup> Moh Thohir and Didik Sukriono. "Implementation Authority of the Constitutional Court in the Indonesian Constitutional Law System." *Awang Long Law Review* 6.2 (2024): 346-352. <https://doi.org/10.56301/awl.v6i2.1112>

Constitutional Court reflects broader trends in Southeast Asia, where similar movements towards democratization and constitutionalism are unfolding.

### Current Limitations in Indonesia's Constitutional Adjudication System

A constitutional complaint is a legal recourse available to individuals who believe that their constitutional rights have been violated by laws or actions of public authorities. This mechanism empowers citizens by allowing them to directly petition constitutional courts to review the constitutionality of state actions. In South Korea, the Constitutional Court adjudicates these complaints, providing a vital check on governmental power and ensuring compliance with constitutional norms.<sup>44</sup> As Awanisa et al. highlight, countries like Germany and South Korea have effectively implemented constitutional complaint mechanisms, facilitating public participation in judicial processes.<sup>45</sup>

The theoretical foundation of constitutional complaints is anchored in concepts of fundamental rights, the rule of law, and governance accountability. The foundation rests upon the notion that a well-functioning democracy requires mechanisms that enable citizens to challenge government actions that infringe upon their rights. This aligns with the views presented by Palguna, who argues that the constitutional complaint is a critical tool for ensuring the protection of citizens' constitutional rights and fostering a responsive justice system.<sup>46</sup>

In South Korea, the foundation of constitutional adjudication draws from both historical precedents and constitutional imperatives enshrined in the South Korean Constitution. The Constitution grants citizens the right to seek relief from abuses of state power, reinforcing the principle that constitutional rights are not only theoretical but actionable in a court of law.<sup>47</sup>

The evolution of Indonesia's constitutional system has been significantly shaped by the democratic transition that began in 1998. The pressures for a democratic framework were intensified by popular movements against the previous authoritarian regime, leading to significant constitutional amendments between 1999 and 2002. During this period, the importance of establishing mechanisms that protect individual rights became more pronounced, prompting discussions about incorporating a constitutional complaint mechanism within the jurisdiction of the Constitutional Court.<sup>48</sup>

Debate around constitutional complaints has often centered on the advantages it could provide in enhancing citizen engagement and accountability in governance. As pointed out by Mietzner, the development of the Constitutional Court has fostered institutional mechanisms for political conflict resolution and has expanded democratic rights, which are essential indicators of a

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<sup>44</sup> Chakim, M. Lutfi. 'A Comparative Perspective on Constitutional Complaint: Discussing Models, Procedures, and Decisions'. *Constitutional Review* 5, no. 1 (2019): 096. <https://doi.org/10.31078/consrev514>

<sup>45</sup> Awanisa, Aysel, Yusdianto Yusdianto, and Siti Khoiriah. 'The Position of Constitutional Complaint in the Constitutional Court of the Republic of Indonesia'. *Pancasila and Law Review* 2, no. 1 (2021): 61-78. <https://doi.org/10.25041/plr.v2i1.2308>

<sup>46</sup> Palguna, I Dewa Gede. 'Constitutional Complaint and the Protection of Citizens the Constitutional Rights'. *Constitutional Review* 3, no. 1 (2017): 1. <https://doi.org/10.31078/consrev311>

<sup>47</sup> Warjiyati, Sri, Kayode Muhammed Ibrahim, Safrin Salam, and Umar Faruq. 'Complaint Authority for Constitutional Complaint by Indonesia's Constitutional Court'. *Jurnal IUS Kajian Hukum Dan Keadilan* 10, no. 2 (2022): 303-15. <https://doi.org/10.29303/ius.v10i2.1070>

<sup>48</sup> Nawa, Fransiskus Frengki, and Oktana Wahyu Perdana. "Peran Mahkamah Konstitusi dalam Penyelesaian Sengketa Pemilihan Presiden 2024: Implikasi Terhadap Pendidikan Politik Masyarakat." *Pedagogik: Jurnal Pendidikan* 20.2 (2025): 180-187. <https://doi.org/10.33084/pedagogik.v20i2.11141>

consolidating democracy.<sup>49</sup>The introduction of a constitutional complaint system is perceived as a means to further empower citizens by granting them direct access to judicial remedies against potential abuses of power by the state.

Proponents of the constitutional complaint mechanism argue that it can serve as a critical instrument for fortifying democratic practices by ensuring that citizens can hold state actors accountable for violations of constitutional rights. The literature emphasizes that strengthening judicial protections for citizens contributes to the legitimacy and stability of democratic institutions.<sup>50</sup> This perspective aligns with the views of Epstein and colleagues, who assert that constitutional courts play a vital role in both establishing and maintaining democratic systems by providing mechanisms for individual rights protection.

Advocates stress that a constitutional complaints procedure could enhance Indonesia's human rights record, which is essential for its international standing and internal cohesion. As civil society organizations increasingly advocate for the implementation of a constitutional complaint system, the demand for more robust rights protections reflects a maturing democracy that emphasizes accountability and transparency.<sup>51</sup>

Despite the arguments in favor of adopting constitutional complaints, significant political challenges have emerged. One of the primary obstacles is the resistance from political elites who may perceive a constitutional complaints mechanism as a potential threat to their authority. Concerns regarding political repercussions often lead to hesitations about broadening the court's jurisdiction, as noted analysis of the dynamics between judicial decisions and political realities. Political actors may fear that empowering courts with complaint authority could jeopardize their control over legislative processes or lead to increased scrutiny of their actions.

Moreover, the existing political culture in Indonesia, which has historically been characterized by clientelism and patronage, presents inherent challenges to establishing a system that promotes judicial independence. This dynamic can result in compromised integrity of the judicial system, as pointed out by Kelliher et al., who indicate that inconsistencies in court adjudications can emerge from entangled political influences. Layers of political intervention may obstruct judicial processes, making it difficult for the courts to fulfill their intended roles in safeguarding democracy.

Surrounding the adoption of constitutional complaints is closely tied to the integration of judicial mechanisms in Indonesia's democratic consolidation. A robust complaints system could facilitate a more active citizenry capable of engaging with legal institutions, thus reinforcing public trust in democratic governance. It could also serve as a deterrent against authoritarian impulses by making the government more accountable to its citizens, as indicated by studies on the role of constitutional courts in consolidating democracy.

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<sup>49</sup> Nawa, Fransiskus Frengki, and Oktana Wahyu Perdana. "Peran Mahkamah Konstitusi dalam Penyelesaian Sengketa Pemilihan Presiden 2024: Implikasi Terhadap Pendidikan Politik Masyarakat." *Pedagogik: Jurnal Pendidikan* 20.2 (2025): 180-187. <https://doi.org/10.33084/pedagogik.v20i2.11141>

<sup>50</sup> James L. Gibson and Gregory A. Caldeira. "Defenders of democracy? Legitimacy, popular acceptance, and the South African Constitutional Court." *The Journal of Politics* 65.1 (2003): 1-30. <https://doi.org/10.1111/1468-2508.t01-1-00001>

<sup>51</sup> Anugerah, Boy. "Strengthening Democracy in Indonesia: Comparison between Representative and Direct Presidential Election Policies." *Jurnal Studi Sosial Dan Politik* 6.1 (2022): 1-16. <https://orcid.org/0000-0001-8212-6528>

Conversely, failure to adopt and implement an effective constitutional complaints mechanism may hinder Indonesia's progress towards consolidating democracy and achieving a more transparent governance framework. As indicated by Hasani et al., neglecting constitutional court decisions not only undermines citizens' rights but also erodes the very foundations upon which a constitutional state is built.

Implementation of a constitutional complaint mechanism in Indonesia has garnered attention due to its potential to enhance the protection of constitutional rights. The urgency of adopting such a mechanism stems from the need to provide citizens with a direct avenue to challenge governmental actions or legislation that infringe upon their constitutional rights. This need is underscored by existing gaps in the current legal framework, which often restricts access to justice and fails to adequately safeguard individual rights.<sup>52</sup>

One possible approach to implementing a constitutional complaint in Indonesia could involve the expansion of the Constitutional Court's jurisdiction. Currently, this court's authority is primarily focused on judicial review and resolving disputes among state institutions.<sup>53</sup> However, the adoption of a constitutional complaint system is not without its challenges. Political resistance may pose a significant obstacle, given that amendments to the Constitution or legislative changes require substantial political consensus.<sup>54</sup>

Implementation of a constitutional complaint mechanism in Indonesia holds considerable promise in enhancing the protection of constitutional rights and judicial independence, careful consideration of the governing political landscape, judicial capacity, and resource implications is essential. The proposed model for adoption must take into account these multifaceted challenges in order to effectively transform constitutional rights protection in Indonesia.

## Conclusion

This study demonstrates that the absence of a constitutional complaint mechanism in Indonesia represents a significant gap in the protection of constitutional rights. Comparative experiences from Germany, South Korea, and Thailand illustrate that constitutional complaint functions as an essential legal remedy to guarantee access to justice, safeguard fundamental rights, and strengthen judicial independence. The findings highlight that, in the Indonesian legal context, the introduction of a constitutional complaint is not merely an option but a constitutional necessity to close the current gap in rights protection and to reinforce the role of the Constitutional Court as the guardian of the Constitution. The political and institutional challenges that may arise should be viewed as part of the transitional process of constitutional reform rather than insurmountable barriers.

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<sup>52</sup> Desak Ayu Gangga Sitha Dewi Et Al., 'The Authority Of The Constitutional Court In Handling Constitutional Complaints: A Comparative Study With Germany And South Korea: Kewenangan Mahkamah Konstitusi Dalam Menangani Pengaduan Konstitusional: Studi Komparatif Dengan Jerman Dan Korea Selatan', *Constitutional Law Society* 1, No. 2 (2022): 127-39, <https://doi.org/10.36448/Cls.V1i2.28>

<sup>53</sup> Airlangga Gama Shakti Et Al., 'The Integration Of Judicial Review In Indonesia', *Syiah Kuala Law Journal* 6, No. 3 (2023): 212-27, <https://doi.org/10.24815/Sklj.V6i3.26940>

<sup>54</sup> Thohir, Moh, and Didik Sukriono. "Implementation Authority of the Constitutional Court in the Indonesian Constitutional Law System." *Awang Long Law Review* 6.2 (2024): 346-352. <https://doi.org/10.56301/awl.v6i2.1112>

In light of these findings, it is recommended that policymakers, legislators, and judicial institutions seriously consider the adoption of a constitutional complaint mechanism through constitutional amendment or statutory regulation. Careful institutional design is required to prevent an overwhelming caseload and to ensure the mechanism operates effectively and proportionately. Beyond its technical function, the implementation of constitutional complaint would contribute to the consolidation of democracy, the advancement of the rule of law, and the strengthening of public trust in Indonesia's constitutional justice system. Ultimately, a constitutional complaint should be regarded as a transformative step in Indonesia's ongoing legal and constitutional reform, ensuring that citizens' rights are not only guaranteed in principle but also protected in practice.

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