



Limits on Constitutional Court Judicial Activism as A Negative Legislator: Analysis of Decision Number 135/PUU-XXII/2024

Nata Senora^{1*}, Sultoni Fikri², Md. Abdul Mannan Bhuyean³

¹ Faculty of Law, Universitas 17 Agustus 1945 Surabaya, Indonesia. E-mail: natasenora@gmail.com

² Faculty of Law, Universitas 17 Agustus 1945 Surabaya, Indonesia.

³ Department of Law, University of Information Technology and Sciences, Bangladesh.

Article History:

Submitted:

30-07-2026

Received:

23-08-2026

Accepted:

22-09-2026

Keywords: judicial
activism;
constitutional
court; negative
legislator;
constitutional
interpretation;
simultaneous
elections

Abstract: This study aims to analyze the limits of judicial activism exercised by the Constitutional Court in Decision Number 135/PUU-XXII/2024 concerning the design of the simultaneous implementation of general elections and regional head elections. The decision has generated considerable debate because the Constitutional Court constructed a new constitutional framework regarding the relationship between national elections and regional head elections. This research employs a normative legal research method using statutory, conceptual, and case approaches. The findings demonstrate that Constitutional Court Decision Number 135/PUU-XXII/2024 reflects the practice of judicial activism through the application of systematic and teleological interpretation to address regulatory ambiguity concerning the simultaneity of elections. Although the Constitutional Court provides guidance for the future design of electoral administration, the decision remains within the scope of the Court's authority as a negative legislator because it does not establish operational legal norms, which fall within the competence of the legislature. The limits of judicial activism in this decision are reflected in the existence of a clear constitutional basis, respect for the doctrine of open legal policy, and the absence of any assumption of the legislative function vested in the DPR and the President. Accordingly, Decision Number 135/PUU-XXII/2024 demonstrates that judicial activism may serve as an instrument for constitutional protection, provided that it continues to uphold the principles of separation of powers, checks and balances, and legal certainty within Indonesia's constitutional system.

1. Introduction

Indonesia adheres to the principle of the rule of law, as expressly affirmed in Article 1(3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI Tahun 1945). A consequence of this principle is that all actions undertaken by state authorities must be based upon the Constitution and the prevailing laws and regulations. The Constitution is therefore positioned as the supreme law, serving as

the foundation and guiding framework for the exercise of state power (Muabezi, 2017). The enforcement of constitutional supremacy depends not only upon the existence of constitutional norms but also upon the presence of an institution vested with the authority to safeguard and oversee their implementation (Patra, 2022). The Constitutional Court was established as one of the judicial institutions, with the principal functions of serving as the guardian of the Constitution and the sole interpreter of the Constitution (Ilham, 2024). This authority confers a pivotal role upon the Constitutional Court in ensuring that every statute is consistent with the values and principles enshrined in UUD NRI Tahun 1945. In exercising this authority, the Constitutional Court is frequently placed in a position where it not only invalidates a legal norm but also provides a new interpretation of the norm under constitutional review (Asshidiqie, 2016).

Developments in constitutional practice demonstrate that decisions of the Constitutional Court do not invariably take the form of simply invalidating statutory provisions (Rubaie, 2018). On the contrary, several decisions reveal a tendency for constitutional justices to adopt a progressive interpretative approach in order to ensure the protection of citizens' constitutional rights and to preserve the effectiveness of the Constitution (Haryono, 2022). This development has given rise to a debate concerning the practice of judicial activism in the decisions of the Constitutional Court. Judicial activism is understood as the proactive role of judges in discovering the law and assigning constitutional meaning to a legal norm where that norm is considered inadequate, ambiguous, or productive of injustice (Prabowo & Wiryanto, 2022). The debate surrounding judicial activism cannot be separated from the concept of the Constitutional Court as a negative legislator. This concept, introduced by Hans Kelsen, positions the Constitutional Court solely as an institution vested with the authority to invalidate legal norms that are inconsistent with the Constitution, rather than as a body empowered to create new legal norms (Subroto, 2014). Constitutional adjudication in Indonesia demonstrates that the boundary between constitutional interpretation and the creation of new legal norms has frequently become blurred. Indeed, several decisions of the Constitutional Court have been regarded as shifting from the function of a negative legislator toward that of a positive legislator because they incorporate legal norms, conditions, or legal constructions that had not previously been enacted by the legislature.

The debate resurfaced in Constitutional Court Decision Number 135/PUU-XXII/2024. The decision contains an interpretation concerning the design of the administration of general elections and regional head elections, which has generated divergent views among constitutional law scholars and practitioners. One view maintains that the Constitutional Court merely exercised its function of constitutional interpretation in order to preserve the consistency of the constitutional system. Another view contends that the Constitutional Court exceeded the limits of its authority by constructing a new normative framework that should properly fall within the competence of the legislature. These differing perspectives demonstrate the existence of a fundamental issue concerning the limits of the Constitutional Court's authority in undertaking constitutional interpretation. This issue warrants careful examination because it concerns the balance between the Constitutional

Court's role as the guardian of the Constitution and the principle of the separation of powers within Indonesia's constitutional system. Based on the foregoing, it is pertinent to examine whether the Constitutional Court's interpretation in Decision Number 135/PUU-XXII/2024 constitutes a form of judicial activism that remains within the limits of the Court's authority as a negative legislator, or instead reflects a shift in authority toward the function of a positive legislator.

2. Method

This study employs a doctrinal legal research method aimed at analyzing the limits of judicial activism exercised by the Constitutional Court in Decision Number 135/PUU-XXII/2024 based on positive law, legal doctrine, and legal theory. The research adopts three approaches. First, the statutory approach examines legislation relating to the authority of the Constitutional Court, the formation of legislation, and the regulation of general elections and regional head elections, including Law Number 24 of 2003, as last amended by Law Number 7 of 2020, Law Number 48 of 2009, Law Number 12 of 2011, as amended by Law Number 13 of 2022, Law Number 7 of 2017, and Law Number 10 of 2016. Second, the conceptual approach is employed to examine the concepts of judicial activism, negative legislator, positive legislator, living constitution, open legal policy, and separation of powers based on the doctrines advanced by legal scholars. Third, the case approach is undertaken through an analysis of Constitutional Court Decision Number 135/PUU-XXII/2024 in order to assess the consistency of its legal reasoning and the limits of the Constitutional Court's authority in undertaking constitutional interpretation.

3. Result and Discussion

3.1 The Limits of the Constitutional Court's Authority as a Negative Legislator

The Constitutional Court's authority to conduct judicial review of statutes against UUD NRI Tahun 1945 positions the Court as both the guardian of the Constitution and the sole interpreter of the Constitution (Rahman et al., 2024). This position not only confers the authority to assess the constitutionality of statutes but also requires the Constitutional Court to interpret constitutional norms of a general nature (the open texture of constitutional norms) to ensure that the Constitution remains capable of responding to the evolving dynamics of state governance. The legal basis for this authority is expressly provided in Article 10(1)(a) of Law Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 on the Constitutional Court, which stipulates that the Constitutional Court has the authority to adjudicate at the first and final instance, with its decisions being final, in reviewing statutes against UUD NRI Tahun 1945. This provision is further reaffirmed in Article 29(1)(a) of Law Number 48 of 2009 on Judicial Power, which provides that the Constitutional Court has the authority to adjudicate at the first and final instance, with its decisions being final, in reviewing statutes against the Constitution. The function of constitutional review constitutes a process of legal reasoning, requiring constitutional justices to ascertain the meaning of a legal norm based upon legal

values, the principles of justice, and the objectives underlying the enactment of the law

Meanwhile, judicial activism constitutes an approach that places judges in an active role in discovering the law through progressive constitutional interpretation when statutory norms are no longer capable of providing solutions to legal issues arising within society (Liswana et al., 2025). This approach is consistent with the theory of legal discovery developed by Paul Scholten, who argues that judges do not merely apply the law, but also discover the law through the interpretation of abstract legal norms so that they may be applied to concrete cases (von Arnould, 2017). Article 5(1) of Law Number 48 of 2009 provides that judges and constitutional justices are obliged to explore, adhere to, and understand the legal values and the sense of justice prevailing within society. This provision demonstrates that the legislature itself envisages an active judicial role in developing the meaning of the law, provided that such development is undertaken to achieve justice (Febriyanti, 2025). Accordingly, where there exists a legal vacuum, ambiguity in statutory formulation, or conflicts between legal norms that have the potential to undermine the rights of citizens, the Constitutional Court cannot remain passive by relying solely upon grammatical interpretation. Instead, the Constitutional Court must employ systematic, teleological, and constitutional interpretation to ensure that the objectives of the law (justice, legal certainty, and legal utility) are achieved.

Nevertheless, recognition of judicial activism does not imply that the Constitutional Court is afforded unlimited discretion to create new legal norms. Within Indonesia's constitutional system, the Constitutional Court is conceptually positioned as a negative legislator, as advanced by Hans Kelsen. This concept affirms that the function of the Constitutional Court is to invalidate legal norms that are inconsistent with the Constitution (annulling unconstitutional legislation), rather than to replace the legislature in formulating new legal norms (Subroto, 2014). This functional division is consistent with the legislative framework governing the formation of laws and regulations as provided in Article 1(1) of Law Number 12 of 2011 on the Formation of Laws and Regulations, as last amended by Law Number 13 of 2022, which stipulates that the formation of laws and regulations comprises the stages of planning, drafting, deliberation, enactment or adoption, and promulgation. Furthermore, Article 20(2) of Law Number 13 of 2022 provides that the deliberation of a bill shall be conducted by the House of Representatives (DPR) together with the President in order to reach mutual approval. These provisions demonstrate that legislative authority is vested in the legislative branch in conjunction with the executive branch. Accordingly, the Constitutional Court possesses neither constitutional legitimacy nor democratic legitimacy to assume that function through its decisions in constitutional review proceedings.

The issue began to emerge when, in some Constitutional Court decisions, the Court's legal reasoning not only invalidated legal norms declared unconstitutional but also formulated substitute norms, imposed conditions on the applicability of legal norms (conditionally constitutional and conditionally unconstitutional), and even provided detailed directions regarding the substantive content to be enacted by the

legislature (Andiraharja, 2021). This phenomenon has given rise to a debate concerning the boundary between the activity of constitutional interpretation and the activity of legislation. From the perspective of the theory of the separation of powers developed by Montesquieu, each branch of government exercises a distinct function to prevent the concentration of power (Agu, 2024; Krause, 2000). When the Constitutional Court begins to formulate legal norms that are general, abstract, and externally binding, as are the characteristics of statutory law, the judicial function risks shifting toward a legislative function. Such a shift not only raises concerns regarding the democratic legitimacy of constitutional justices, who are not elected through a representative process, but may also diminish the scope of open legal policy, which, as a matter of law, falls within the domain of the legislature.

The legislature possesses discretionary authority to determine legal policy choices, provided that such choices do not contravene constitutional principles (Wibowo, 2016). Accordingly, the Constitutional Court is, in principle, limited to reviewing the constitutionality of legal norms rather than assessing whether a particular policy constitutes the most appropriate legislative choice (wisdom review). This view is also consistent with the doctrine of judicial self-restraint, which emphasizes that courts should exercise restraint and refrain from encroaching upon the sphere of public policy that falls within the competence of the political branches of government (Dramanda, 2016). Although the Constitutional Court has an obligation to protect the constitutional rights of citizens, such protection must nevertheless be exercised within the confines of its judicial authority and must not evolve into a process of law-making that falls within the competence of the legislature.

3.2 Interpretation in Constitutional Court Decision Number 135/PUU-XXII/2024

Constitutional Court Decision Number 135/PUU-XXII/2024 constitutes one of the Court's landmark decisions in the development of Indonesian constitutional law because it not only resolved a dispute concerning the regulation of the simultaneity of elections (Baehaki, 2025). The petition for constitutional review in this case essentially arose from issues relating to the model of simultaneous national elections and regional head elections that had long been implemented under Law Number 7 of 2017 on General Elections and Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 on the Enactment of Government Regulation in Lieu of Law Number 1 of 2014 on the Election of Governors, Regents, and Mayors into Law. The central issue concerned how the institutional design of elections should be interpreted so as to remain consistent with the principles of constitutional democracy, effective governance, and the protection of citizens' political rights. The Constitutional Court was therefore confronted with the need to provide a constitutional interpretation of the relationship between the general election regime and the regional head election regime, both of which had evolved through constitutional practice.

The Constitutional Court's reasoning in this decision cannot be separated from the normative framework governing the administration of elections as established by legislation. Article 1(1) of Law Number 7 of 2017 provides that a General Election is the means by which the sovereignty of the people is exercised to elect members of the House of Representatives, members of the Regional Representative Council, the President and Vice President, and members of the Regional People's Representative Councils, conducted directly, generally, freely, secretly, honestly, and fairly within the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Meanwhile, Article 1(1) of Law Number 10 of 2016 provides that the Election of Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors constitutes the exercise of popular sovereignty within provinces and regencies/municipalities to elect governors, regents, and mayors directly and democratically. The distinction between these two regulatory regimes demonstrates that the legislature has, from the outset, differentiated between general elections as the mechanism for constituting representative institutions and the national government, and regional head elections as the mechanism for filling positions in regional government (Faridhi & Indra, 2026). Accordingly, the Constitutional Court took the view that there is no constitutional requirement for these two electoral regimes to be conducted simultaneously at the same point in time.

Building upon this construction, the Constitutional Court employed the method of systematic interpretation by reading the entire electoral legal framework as an integrated system rather than relying upon a single provision in isolation. Systematic interpretation requires that every legal provision be understood as part of a coherent legal system, such that the relationship among legal provisions must be interpreted harmoniously. From the perspective of legal interpretation advanced by Karl Larenz, a legal norm cannot be understood in isolation from the legal system as a whole because the meaning of the norm is shaped by its relationship with other legal norms (Vdovschen, 2024). Based on this approach, the Constitutional Court held that the regulation of regional head elections under Law Number 10 of 2016 possesses characteristics and objectives that differ from those governing general elections under Law Number 7 of 2017. Accordingly, the design of simultaneous elections cannot be regarded as the only model that is consistent with the Constitution.

In addition to employing systematic interpretation, the Constitutional Court also applied the method of teleological interpretation, namely, interpreting legal norms in light of the objectives intended by the legislature. In its reasoning, the Constitutional Court took into account various empirical facts concerning the high level of complexity involved in the administration of simultaneous elections, the increasing workload imposed upon election administrators, the declining quality of electoral administration at each stage of the electoral process, and the reduced effectiveness of the exercise of citizens' voting rights resulting from the requirement to cast votes on multiple ballot papers simultaneously. Such an approach reflects the application of Satjipto Rahardjo's theory of progressive law, which regards law as an instrument for achieving social utility (Aulia, 2018; Rahardjo, 2009), thereby maintaining that the law should not be rigidly preserved where doing so would

impede the realization of justice and the quality of democracy. Nevertheless, the progressive character of Constitutional Court Decision Number 135/PUU-XXII/2024 has simultaneously generated discourse concerning the limits of the Constitutional Court's authority as a negative legislator. Both in the operative part of the judgment and in its legal reasoning, the Constitutional Court formulated a framework concerning the future model for the administration of general elections and regional head elections. This circumstance raises the question of whether the Constitutional Court remained within the confines of constitutional interpretation or had instead entered the domain of norm creation. According to Hans Kelsen's theory of the negative legislator, a constitutional court is fundamentally vested only with the authority to invalidate legal norms that are inconsistent with the Constitution, whereas the creation of new legal norms remains within the competence of the legislature (Subroto, 2014). This principle is also consistent with the legislative process for the formation of laws and regulations as provided in Article 1(1) of Law Number 12 of 2011, as last amended by Law Number 13 of 2022, which affirms that the formation of laws and regulations constitutes a series of activities encompassing planning, drafting, deliberation, enactment or adoption, and promulgation. Accordingly, the authority to formulate the electoral system as a matter of legislative policy remains vested in the legislature, whereas the Constitutional Court is empowered only to review and correct such legislation where it is inconsistent with the Constitution.

Thus, Constitutional Court Decision Number 135/PUU-XXII/2024 demonstrates the dynamic relationship between the function of constitutional interpretation and the limits of judicial authority within a democratic constitutional state. The decision reflects the application of the living constitution doctrine. However, the application of this doctrine must nevertheless be situated within the framework of judicial self-restraint. Therefore, an analysis of Decision Number 135/PUU-XXII/2024 is essential to assess whether the legal construction developed by the Constitutional Court remains a legitimate form of constitutional interpretation or has instead demonstrated a tendency toward the role of a positive legislator through the creation of new norms that should fall within the domain of legal policy (open legal policy) of the legislature. This issue subsequently becomes the central point in evaluating the limits of judicial activism exercised by the Constitutional Court in Indonesia.

3.3 The Limits of Judicial Activism in Constitutional Court Decision Number 135/PUU-XXII/2024

Constitutional interpretation by the Constitutional Court is essentially a juridical consequence of its authority as an institution exercising the function of constitutional adjudication. In performing this function, the Constitutional Court is not only responsible for reviewing the constitutionality of statutory norms but also for ensuring that every legislative product remains consistent with the principles of the rule of law and is capable of providing protection for citizens' constitutional rights. Article 10(1)(a) of Law Number 24 of 2003 on the Constitutional Court, as last amended by Law Number 7 of 2020, provides that the Constitutional Court has the

authority to adjudicate at the first and final instance, with its decisions being final, in reviewing statutes against the 1945 Constitution of the Republic of Indonesia. In exercising this authority, constitutional justices are also bound by the provisions of Article 5(1) of Law Number 48 of 2009 on Judicial Power, which stipulates that judges and constitutional justices are obliged to explore, adhere to, and understand the legal values and the sense of justice prevailing within society. Judicial activism is recognized insofar as it is employed as an instrument of *rechtsvinding* to address legal vacuums, ambiguous norms, or conflicts between legal norms that cannot be resolved solely through grammatical interpretation (Nugroho et al., 2025). However, such interpretative space does not constitute an absolute authority, and therefore, its exercise must remain based upon the existing legal framework.

In Constitutional Court Decision Number 135/PUU-XXII/2024, the Constitutional Court constructed its legal reasoning through systematic and teleological interpretation of the design of simultaneous general elections and regional head elections. Such interpretation may still be considered within the scope of constitutional interpretation because it was not formulated without a legal basis, but rather was constructed upon the overall electoral legal framework established under Law Number 7 of 2017 on General Elections and Law Number 10 of 2016 on the Election of Governors, Regents, and Mayors. The Constitutional Court essentially provided meaning to the relationship between these two regulatory regimes without eliminating the authority of the legislature to determine the operational design for the administration of elections. From the perspective of the living constitution doctrine as articulated by David A. Strauss, such interpretation constitutes an effort to ensure that the Constitution remains relevant to the development of constitutional practice without altering the identity of the Constitution itself (Strauss, 2010).

The second limitation of judicial activism is reflected in the Constitutional Court's respect for the doctrine of open legal policy. Although Decision Number 135/PUU-XXII/2024 provides direction regarding the separation of the design for simultaneous national elections and regional head elections, the Constitutional Court does not formulate detailed operational norms concerning the stages, schedule, or mechanisms of their implementation. Such matters remain within the authority of DPR and the President as the law-making bodies, as affirmed in Article 1(1) of Law Number 12 of 2011, as last amended by Law Number 13 of 2022, which provides that the formation of laws and regulations constitutes the enactment of legislation encompassing the stages of planning, drafting, deliberation, enactment or adoption, and promulgation. Therefore, the Constitutional Court's decision does not automatically shift the legislative function but rather provides constitutional parameters that must be considered by the legislature in formulating subsequent legal policies.

Furthermore, the third limitation concerns the prohibition against the Constitutional Court transforming its position from a negative legislator into a positive legislator. According to Hans Kelsen, a constitutional court is only vested with the authority to invalidate unconstitutional norms, rather than to create new

legal norms that are general and abstract in nature. Although Decision Number 135/PUU-XXII/2024 has broad implications for the direction of reform of the national electoral system, the legal construction developed by the Constitutional Court is more appropriately understood as a form of judicial guidance rather than the creation of legislative norms. The practice of judicial activism in this decision remains within justifiable limits because the Constitutional Court continues to perform its interpretative function in safeguarding constitutional supremacy without assuming legislative authority. Nevertheless, this decision also demonstrates that the boundary between constitutional interpretation and norm creation has become increasingly narrow, thereby requiring the application of judicial activism in the future to be consistently accompanied by the principle of judicial self-restraint in order to preserve the balance of checks and balances within Indonesia's constitutional system.

4. Conclusion

Constitutional Court Decision Number 135/PUU-XXII/2024 constitutes a manifestation of judicial activism that remains within the scope of the Constitutional Court's authority as a negative legislator. The Constitutional Court conducted systematic and teleological interpretation of legal norms in order to address regulatory ambiguity concerning the design of simultaneous general elections and regional head elections, without departing from the legal foundation underlying its authority. Although the decision constructs a new legal framework and provides direction for the legislature in formulating future electoral policies, the Constitutional Court does not assume the legislative function because it does not establish operational norms that fall within the authority of the DPR and the President as law-making institutions. Decision Number 135/PUU-XXII/2024 demonstrates that judicial activism may be justified insofar as it is exercised to ensure the effectiveness of the Constitution, protect citizens' constitutional rights, and continue to respect the principles of separation of powers, checks and balances, and the doctrine of open legal policy within Indonesia's constitutional system.

Acknowledgments (Optional)

-

References

- Agu, S. N. (2024). Separation of Powers in Baron de Montesquieu: Philosophical Appraisal. *Indonesian Journal of Interdisciplinary Research in Science and Technology*, 2(1), 37–58. <https://doi.org/10.55927/marcopolo.v2i1.7101>
- Andiraharja, D. G. (2021). Judicial Review oleh Mahkamah Konstitusi sebagai Fungsi Ajudikasi Konstitusional di Indonesia. *Khazanah Hukum*, 3(2), 70–79. <https://doi.org/10.15575/kh.v3i2.9012>
- Asshidiqie, J. (2016). *Pengantar Ilmu Hukum Tata Negara*. PT RajaGrafindo Persada.

- Aulia, M. Z. (2018). Hukum Progresif dari Satjipto Rahardjo. *Undang: Jurnal Hukum*, 1(1), 159–185. <https://doi.org/10.22437/ujh.1.1.159-185>
- Baehaki, K. (2025). Masa Depan Pemilu Indonesia: Refleksi Putusan Mahkamah Konstitusi Nomor 135/PUU-XII/2024. *Jurnal Media Hukum*, 13(2), 265–274. <https://doi.org/10.59414/jmh.v13i2.1042>
- Dramanda, W. (2016). Menggagas Penerapan Judicial Restraint Di Mahkamah Konstitusi. *Jurnal Konstitusi*, 11(4), 617. <https://doi.org/10.31078/jk1141>
- Faridhi, A., & Indra, M. (2026). Dinamika Kesenjangan Pemilu dan Pilkada 2024: Analisis Putusan MK Nomor 135/PUU-XXII/2024. *Konferensi Nasional Asosiasi Pengajar Hukum Tata Negara Dan Hukum Administrasi Negara*, 3(1), 23–36. <https://doi.org/10.55292/fs7n4w29>
- Febriyanti, W. D. R. (2025). Penemuan Hukum (Rechtsvinding) dan Pembentukan Hukum (Rechtsschepping) dalam Sistem Hukum Peradilan Indonesia. *Journal of Law, Society, and Islamic Civilization*, 13(2), 165. <https://doi.org/10.20961/jolsic.v13i2.107752>
- Haryono, D. (2022). Metode Tafsir Putusan Mahkamah Konstitusi dalam Pengujian Konstitusional Undang-Undang Cipta Kerja. *Jurnal Konstitusi*, 18(4), 774. <https://doi.org/10.31078/jk1843>
- Ilham, M. (2024). Mahkamah Konstitusi dalam Menegakkan Keadilan Konstitusional di Era Modern. *Legal Standing: Jurnal Ilmu Hukum*, 8(2), 467–479. <https://doi.org/10.24269/lis.v8i2.9643>
- Krause, S. (2000). The Spirit of Separate Powers in Montesquieu. *The Review of Politics*, 62(2), 231–265. <https://doi.org/10.1017/S0034670500029454>
- Liswana, N., Rusnan, R., Jayadi, H., & Umam, K. (2025). Kewenangan Mahkamah Konstitusi dalam Melakukan Judicial Activism. *Jurnal Diskresi*, 4(1), 102–112. <https://doi.org/10.29303/diskresi.v4i1.7426>
- Muabezi, Z. A. (2017). Negara Berdasarkan Hukum (Rechtsstaats) Bukan Kekuasaan (Machtsstaat). *Jurnal Hukum Dan Peradilan*, 6(3), 421–446. <https://doi.org/10.25216/jhp.6.3.2017.421-446>
- Nugroho, R. M., Sobirin, S., & Gymnastiar, R. (2025). Judicial Activism vs. Electoral Justice: The Overlooked Purcell Principle in Indonesia. *Jurnal Hukum IUS QUIA IUSTUM*, 32(2), 361–386. <https://doi.org/10.20885/iustum.vol32.iss2.art5>
- Patra, R. (2022). Peran Mahkamah Konstitusi Sebagai Pengawal Demokrasi di Indonesia. *Jurnal Komunikasi Hukum (JKH)*, 8(2), 381–393. <https://doi.org/10.23887/jkh.v8i2.51180>
- Prabowo, B. S., & Wiryanto, W. (2022). Konsistensi Pembuatan Norma Hukum dengan Doktrin Judicial Activism dalam Putusan Judicial Review. *Jurnal Konstitusi*, 19(2), 359–380. <https://doi.org/10.31078/jk1925>
- Rahardjo, S. (2009). *Hukum dan Perubahan Sosial: Suatu Tinjauan Teoretis Serta Pengalaman-Pengalaman di Indonesia*. Genta Publishing.
- Rahman, I. S., Rosidin, U., & Ramdani, M. A. K. (2024). Kewenangan Mahkamah Konstitusi sebagai Lembaga Superbody dalam Sistem Ketatanegaraan Indonesia. *Qanuniya: Jurnal Ilmu Hukum*, 1(1), 35–46. <https://doi.org/10.15575/qanuniya.v1i1.820>

- Rubaie, A. (2018). Dilematis Hukum Mahkamah Konstitusi Dalam Perspektif Putusan. *Ajudikasi : Jurnal Ilmu Hukum*, 2(2), 117–126. <https://doi.org/10.30656/ajudikasi.v2i2.697>
- Strauss, D. A. (2010). The living Constitution. *Choice Reviews Online*, 48(04), 48. <https://doi.org/10.5860/CHOICE.48-2366>
- Subroto, S. (2014). Legislasi Mahkamah Konstitusi dalam Putusan Mahkamah Konstitusi Nomor: 46/PUU-VIII/2010 di Tinjau dari Teori Hukum Hans Kelsen Tentang Konstitusi. *Justicia Islamica*, 11(2). <https://doi.org/10.21154/justicia.v11i2.103>
- Vdovschen, V. (2024). Graded Interpretation of Karl Larenz in Terms of Juridicial Methotology and/or Juridicial Argumentation. *Scientific Notes Series Law*, 1(16). <https://doi.org/10.36550/2522-9230-2024-16-260-264>
- von Arnould, A. (2017). Norms and Narrative. *German Law Journal*, 18(2), 309–330. <https://doi.org/10.1017/S2071832200021970>
- Wibowo, M. (2016). Menakar Konstitusionalitas sebuah Kebijakan Hukum Terbuka dalam Pengujian Undang-Undang. *Jurnal Konstitusi*, 12(2), 196. <https://doi.org/10.31078/jk1221>