

Forms of Constitutional Disobedience Against Final and Binding Decisions of the Constitutional Court

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Abstract: Constitutional Court rulings are final and binding, and thus must be obeyed by all state institutions. Indonesian constitutional practice reveals instances of non-compliance with Constitutional Court rulings—manifested through delayed implementation, disregard for the ruling's operative provisions, or the enactment of new norms that contradict the Court's decisions. This situation gives rise to a phenomenon of "constitutional disobedience," which undermines constitutional supremacy, legal certainty, and the effectiveness of the Constitutional Court in its role as the guardian of the constitution. This study aims to analyze the regulation of constitutional disobedience within the Indonesian constitutional system and to examine the urgency of granting the Constitutional Court the authority to issue judicial orders as a mechanism to strengthen the implementation of its rulings. Employing a normative legal research method, this study utilizes statutory, conceptual, and case-based approaches. The findings indicate that the 1945 Constitution of the Republic of Indonesia does not explicitly address constitutional disobedience nor provide enforcement mechanisms to guarantee the implementation of Constitutional Court rulings, particularly those that are non-self-executing. The study concludes that granting the Constitutional Court the authority to issue judicial orders is necessary as a constitutional instrument to bolster constitutional compliance, ensure the effectiveness of the Court's rulings, and uphold constitutional supremacy and the principle of checks and balances within Indonesia's constitutional system.

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Purpose: Knowing to what extent the Constitutional Court's decisions are binding and final for state institutions.

Design/Methodology/Approach: This research falls into the category of normative legal research. Legal research conducted by examining library materials or secondary data is referred to as normative legal research or library-based legal research.

Findings: To find out the consequences for state institutions that do not implement the Constitutional Court's decisions, thus causing constitutional disobedience or defiance of the constitution.

Originality/value: Offering judicial order as a constitutional mechanism to strengthen the implementation of Constitutional Court decisions.

Keywords: constitutional disobedience; judicial order; constitutional court; constitutional supremacy

Paper Type: article-research

Introduction

The Constitutional Court is a state institution that serves as the guardian and interpreter of the constitution and has the primary authority to review laws against the 1945 Constitution of the Republic of Indonesia. Article 24C of the 1945 Constitution of the Republic of Indonesia grants the Constitutional Court the authority to review laws against the 1945 Constitution of the Republic of Indonesia, adjudicate disputes over the authority of state institutions, rule on the dissolution of political parties, adjudicate disputes over general election results, and issue rulings on the People's Representative Council's opinions regarding alleged violations by the President and/or Vice President.

Decisions of the Constitutional Court are final and binding. Their finality means that these decisions immediately acquire the force of law upon being rendered, and no further legal remedies – such as appeals, cassation, or reconsideration – are available. Their binding nature means that Constitutional Court decisions must be obeyed by all parties and apply universally (*erga omnes*).

Consequently, all state institutions have an obligation to implement and respect Constitutional Court decisions as part of upholding the supremacy of the Constitution (Satria 2022).

The establishment of the Constitutional Court has been one of the most significant developments in Indonesia's constitutional system, as this institution serves to ensure that all legal instruments remain in accordance with the 1945 Constitution of the Republic of Indonesia. Its authority to review laws makes the Constitutional Court the guardian of legal policy and the protector of citizens' constitutional rights (Felicia 2022). The Constitutional Court not only issues conventional rulings but also produces various types of rulings, such as those declaring a provision "conditionally constitutional," "conditionally unconstitutional," or "limitedly constitutional," as well as rulings that establish new legal norms. This development indicates a shift in the Constitutional Court's role from that of a "negative legislator" to that of a "positive legislator." (Muttaqin 2024).

The different types of Constitutional Court rulings have also given rise to two categories of ruling enforcement: self-executing and non-self-executing rulings. Self-executing rulings can be enforced immediately without requiring further action from other state institutions, whereas non-self-executing rulings require amendments to laws, the enactment of new regulations, or specific administrative policies to be effectively enforced (Fauziah 2023).

The binding force of Constitutional Court decisions applies not only to the parties to the case but also generally, or *erga omnes*. This characteristic distinguishes Constitutional Court decisions from those of ordinary courts (Ningrum 2023). When the Constitutional Court declares a legal provision to conflict with the 1945 Constitution of the Republic of Indonesia, that provision loses its legally binding force and can no longer serve as a basis for the administration of the state. A ruling by the Constitutional Court is, in essence, a manifestation of constitutional supremacy,

as the substance of the ruling affirms the constitutional limits that must be observed by all state organs.

Fenomena tersebut dalam kajian hukum tata negara dikenal sebagai constitutional disobedience, namely the failure of state institutions or lawmakers to comply with Constitutional Court rulings, which undermines the final and binding nature of such rulings. This situation not only threatens the supremacy of the Constitution and legal certainty but also undermines the principle of checks and balances, as the Constitutional Court's corrective function fails to effectively limit and oversee the exercise of state power (Muhamad Afif Amanullah 2024).

This issue highlights the need for a mechanism capable of ensuring the enforcement of Constitutional Court rulings. One alternative that could be developed is granting the Constitutional Court the authority to issue judicial orders. This authority is intended to serve as a constitutional instrument that enables the Constitutional Court to issue clear and binding orders to state institutions to implement or follow up on its rulings (Hastuti 2018a). Regulations regarding judicial orders are also necessary to provide legal certainty and strengthen the effectiveness of Constitutional Court decisions within Indonesia's constitutional system. Based on these considerations, this study examines the granting of authority to issue judicial orders as a mechanism to curb constitutional disobedience in the implementation of Constitutional Court decisions.

Methods

This study employs three research approaches: the statutory approach, which is used to examine the legal basis for granting the Constitutional Court the authority to issue judicial orders regarding constitutional disobedience. This study also employs the conceptual approach to examine the legal basis for the Constitutional Court's authority to issue judicial orders regarding acts of constitutional disobedience. The case approach is used to

examine and analyze the resolution of cases that have become final and binding.

Discussion and Findings

The Meaning of “Final and Binding” in Constitutional Court Decisions

The Constitutional Court is a state institution established as the guardian and interpreter of the constitution.(Sugiono Margi 2022) This authority is granted directly by Article 24C, paragraphs (1) and (2), of the 1945 Constitution of the Republic of Indonesia, which empowers the Constitutional Court to hear cases in the first and final instance – with its decisions being final and binding – in matters involving the review of laws against the 1945 Constitution of the Republic of Indonesia, disputes over the authority of state institutions, the dissolution of political parties, disputes over general election results, and the rendering of decisions on opinions of the People’s Representative Council regarding alleged violations by the President and/or Vice President (Raga Nata 2023a).

The authority to review laws against the 1945 Constitution of the Republic of Indonesia establishes the Constitutional Court as the sole judicial institution with the authority to provide constitutional interpretations of statutory provisions. This authority is exercised through the mechanism of judicial review, which aims to ensure that all legislative acts remain within the bounds of the Constitution. At the time of its establishment, the Constitutional Court’s rulings were still limited to the forms specified in the Constitutional Court Act, namely: granted, granted in part, denied, and dismissed (Nasir 2020).

Developments in constitutional practice show that the Constitutional Court has subsequently issued various types of rulings, such as “conditionally constitutional,” “conditionally unconstitutional,” “limitedly constitutional,” and rulings that establish new norms. These developments reveal a shift in the

Constitutional Court's function from that of a "negative legislator" to that of a "positive legislator." These rulings not only invalidate legal norms but also formulate new interpretations and norms that must serve as guidelines for lawmakers (Maulidi 2017).

Decisions of the Constitutional Court are final and binding. The term "final" means that a decision of the Constitutional Court acquires the force of law as soon as it is pronounced in a plenary session open to the public, and no further legal remedies – such as appeals, cassation, or reconsideration – are available. This characteristic stems from the need to maintain constitutional legal certainty and prevent uncertainty in the administration of the state.

The binding nature of the Constitutional Court's decision means that it applies to all parties and is not limited to the parties to the case. This characteristic is closely related to the principle of *erga omnes* because the Constitutional Court reviews legal norms that apply generally. When a norm is declared to be in conflict with the 1945 Constitution of the Republic of Indonesia, that norm loses its legally binding force for all citizens and state institutions.

Finality and binding nature are essentially consequences of the principle of constitutional supremacy. Putu Eka Pitriyanti, "Final and Binding Essence on Constitutional Court's Judgment in Judicial Review," *Journal of Social Sciences and The Constitutional Court*, as the guardian of the Constitution, is empowered to ensure that all legal instruments remain in accordance with the 1945 Constitution of the Republic of Indonesia. The enforcement of Constitutional Court decisions thus forms part of upholding the Constitution as the supreme law. Problems arise when the nature of finality and binding nature is understood in an absolute sense. Such an understanding has the potential to give rise to the view that Constitutional Court decisions are beyond criticism and debate. In fact, in a democratic state governed by the rule of law, constitutional court decisions

can still be the subject of academic criticism and constitutional discourse. Criticism of Constitutional Court decisions must be clearly distinguished from actions that reject the validity of those decisions (Saputra 2024).

Another problem arises during the implementation phase of Constitutional Court decisions. Various studies indicate that not all Constitutional Court decisions are implemented optimally by state institutions. This situation highlights a discrepancy between the normative force of the decisions and the actual effectiveness of their implementation. Some decisions even experience “floating execution” – a situation in which a decision is normatively valid and binding, but its implementation remains in limbo within the practice of governance. This situation generally occurs with rulings that are non-self-executing and require follow-up legislation or administrative policies. This dependence on other state institutions means that the implementation of Constitutional Court rulings does not always proceed effectively. Political interests, bureaucratic obstacles, and institutional interests often act as factors that hinder the implementation of Constitutional Court rulings.

The Constitutional Court also lacks direct enforcement mechanisms, unlike criminal and civil courts. The implementation of its decisions depends heavily on the constitutional compliance of the state institutions to which the decisions are addressed. This situation indicates that the effectiveness of the Constitutional Court’s decisions is determined not only by the normative force of the decisions themselves, but also by the degree to which state institutions comply with the Constitution.

The final and binding nature of the Constitutional Court’s decision must ultimately be viewed in proportion to the circumstances (Pratiwi 2025). “Final” indicates that there are no further legal remedies available against the Constitutional Court’s decision, while “binding” indicates that the decision applies to all

parties and must be enforced. The space for criticism and constitutional discourse remains open within the framework of constitutional law development without undermining the Constitutional Court's authority as the guardian of the Constitution and the protector of constitutional supremacy in Indonesia.

Problems in Implementing Constitutional Court Rulings as an Act of Disobedience

Judicial power in Indonesia is regulated in Chapter IX of the 1945 Constitution of the Republic of Indonesia, which stipulates that judicial power is exercised by the Supreme Court and the Constitutional Court. The existence of these two institutions embodies the principle of judicial independence, which is autonomous and free from interference by other branches of government (Ardiansyah 2018). This principle is further reinforced by Law No. 48 of 2009 on Judicial Power, the Law on the Supreme Court, and the Law on the Constitutional Court, which establish the judiciary as an instrument for upholding the law and justice in accordance with the Constitution (Pravidjayanto 2024).

The division of authority between the Supreme Court and the Constitutional Court reflects the existence of distinct systems for reviewing legal norms. The Supreme Court is granted the authority to review regulations issued under laws against the laws themselves through the mechanism of substantive review. The Constitutional Court is granted the authority to review laws against the 1945 Constitution of the Republic of Indonesia as a form of constitutional oversight of legislative products. This position establishes the Constitutional Court as an institution that plays a central role in upholding the supremacy of the Constitution and ensuring that all legal products remain within constitutional boundaries (Marilang 2017).

The implementation of Constitutional Court rulings is the most critical step in giving concrete effect to the Constitution in the life of the state. Constitutional Court rulings would be meaningless if they remained merely normative documents without being followed by effective implementation. The effectiveness of these rulings requires safeguards capable of ensuring that all state institutions implement them in accordance with the Court's directives. Such safeguards are essential to prevent the emergence of various justifications that appear constitutional on the surface but are, in reality, used to circumvent the implementation of Constitutional Court decisions.

Satjipto Rahardjo's view, that legal certainty does not arise on its own but is the result of an effort, shows that the effectiveness of Constitutional Court decisions cannot depend solely on the provisions of Article 24C, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that Constitutional Court decisions are final and binding. Legal certainty requires instruments capable of ensuring that these decisions are actually implemented by the state institutions to which they are addressed (Pravidjayanto 2024).

Constitutional practice shows that state institutions take various forms of follow-up action in response to Constitutional Court decisions. The diversity of these follow-up actions is influenced by the lack of clear regulations regarding the implementation of Constitutional Court decisions, particularly those that are conditionally constitutional, conditionally unconstitutional, and those that establish new legal norms. This situation differs from rulings that explicitly declare a norm unconstitutional and lacking binding legal force, as their legal consequences can be directly applied without requiring further action.

The phenomenon of constitutional defiance against Constitutional Court rulings has occurred in several cases in

Indonesia, particularly in the context of reviewing laws against the 1945 Constitution of the Republic of Indonesia. Constitutional Court rulings, which are supposed to be final and binding, have not been consistently implemented by either the legislature or the government. This defiance manifests in the form of neglecting the obligation to revise laws or the introduction of new policies that substantially revive provisions previously struck down by the Constitutional Court. Such practices create legal uncertainty and have the potential to undermine the principle of constitutional supremacy within Indonesia's system of government. The following is an example of defiance of a Constitutional Court decision regarding one of the Court's powers, namely the review of laws;

The following is a table of Constitutional Court rulings that have not been implemented by state institutions

Table 1. Constitutional Court Decisions Not Implemented by State Institutions

Judgment Number	Acts of Constitutional Disobedience Against a Constitutional Court Ruling
In Constitutional Court Decision No. 058-059-060-063/PUU-II/2004 and Constitutional Court Decision No. 008/PUU-III/2005	The Constitutional Court ruled that Law No. 7 of 2004 on Water Resources remains constitutional as long as its implementation adheres to the interpretation and limitations established by the Constitutional Court. However, the government subsequently issued Government Regulation No. 16 of 2005, which was deemed to deviate from the Constitutional

verdict MK No. 005/PUU-III/2005	Court's interpretation and tended to pave the way for the privatization of water management. The Constitutional Court ruled that the explanation of Article 59(1) was inconsistent with the 1945 Constitution and had no binding legal force. The Court also ruled that political parties without seats in the Regional People's Representative Council (DPRD) could still nominate a candidate pair if they received more than 15% of the valid votes. However, in Law No. 1 of 2015, the House of Representatives once again stipulated that the nomination of candidate pairs applies only to political parties that hold seats in the Regional People's Representative Council (DPRD), a provision deemed inconsistent with the Constitutional Court's ruling.
Constitutional Court Decision No. 2/PUU-V/2007	The Constitutional Court ruled that the death penalty is constitutional and does not conflict with the 1945 Constitution of the Republic of Indonesia. In practice, however, a case was reviewed,

and the panel of justices at the Supreme Court ruled that the death penalty is contrary to Article 28A of the 1945 Constitution of the Republic of Indonesia, the Human Rights Law, and the Universal Declaration of Human Rights.

Verdict MK No. 10/PUU-VI/2008 The Constitutional Court ruled that the eligibility requirements for DPD candidates remain constitutional as long as they are interpreted to mean that candidates must reside in the province they intend to represent. However, in Law No. 8 of 2012 and the General Elections Commission's Regulation No. 8 of 2013, the provision only requires candidates to reside within the territory of Indonesia, without adhering to the Constitutional Court's interpretation regarding domicile in the province they represent. This is considered inconsistent with the Constitutional Court's ruling because it revives a provision that had previously been declared unconstitutional.

Verdict MK No. The Constitutional Court
46/PUU- granted Machica Mochtar's
VIII/2010 petition, ruling that Article
43(1) of the Marriage Law is
inconsistent with the 1945
Constitution if interpreted to
mean that children born out of
wedlock have only a civil
relationship with their mother
and her family. The
Constitutional Court affirmed
that children born out of
wedlock may also have a civil
relationship with their
biological father if this can be
proven legally or scientifically.
However, there are currently
no clear regulations regarding
the implementation of this
ruling, particularly concerning
the inheritance rights of
children born out of wedlock.

Verdict MK No. The Constitutional Court
45/PHPU.D- ordered the West
VIII/2010 Kotawaringin Regency
Election Commission (KPU) to
annul the victory of the SS-ES
ticket, disqualify them, and
declare the candidate pair with
ballot number 2 as the elected
Regent and Deputy Regent.
However, the West
Kotawaringin Regency

	Election Commission did not implement the ruling. During a plenary session, 3 of the 5 members voted to uphold the victory of the SS-ES ticket, while 2 members followed the Constitutional Court's ruling. This action was viewed as a form of defiance against the Constitutional Court's ruling.
Verdict MK No. 36/PUU-X/2012	A ruling by the Constitutional Court declared that a number of articles in Law No. 22 of 2001 on Oil and Natural Gas, including provisions regarding BP Migas, were inconsistent with the Constitution of the Republic of Indonesia and had no binding legal force. However, in practice, the government issued Presidential Regulation No. 9 of 2012, which established SKK Migas, an agency that is essentially identical to BP Migas in terms of its functions and authority.
Verdict MK No. 92/PUU-X/2012	The Constitutional Court ruled that Article 23(1) is inconsistent with the 1945 Constitution unless it is interpreted to mean that the People's Representative Council, the

Regional Representative Council, or the President may submit bills outside the National Legislation Program under certain circumstances, such as a state of emergency, conflict, natural disaster, or a matter of national urgency. However, Law No. 17 of 2014 stipulates that the Regional Representatives Council (DPD) may only submit bills based on the National Legislation Program, which does not fully reflect the interpretation established by the Constitutional Court.

Constitutional Court Decision No. 34/PUU-XI/2013 on the case challenging Article 268(3) of Law No. 8 of 1981 on the Criminal Procedure Code

Constitutional Court Decision No. 34/PUU-XI/2013 held that the restriction on filing a case review (PK) to only one time, as provided in Article 268(3) of the Criminal Procedure Code, was contrary to the 1945 Constitution of the Republic of Indonesia and was declared unconstitutional. In practice, the Supreme Court subsequently issued Supreme Court Circular No. 7 of 2014, which once again limited the right to a retrial to a single instance.

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Verdict MK No. The Constitutional Court ruled
91/PUU- that Law No. 11 of 2020 was
XVIII/2020 conditionally unconstitutional
due to procedural flaws in its
enactment. However, the
government subsequently
issued Government Regulation
in Lieu of Law No. 2 of 2022 to
replace the law. This action was
viewed as a form of
noncompliance with the
Constitutional Court's ruling
and was considered a violation
of the law because it
disregarded the Constitutional
Court's order.

Verdict MK No. The Constitutional Court
28/PPU- issued a clear constitutional
XXIV/2026 interpretation stating that the
Supreme Audit Agency (BPK)
is the sole institution
authorized to determine and
establish the amount of
financial losses to the state.
Subsequently, the Deputy
Attorney General for Special
Crimes issued a circular that
was deemed to still leave room
for institutions other than the
BPK to calculate state losses.
Since the Attorney General's
Office is a party with a vested
interest in criminal corruption

cases, it is inappropriate for an institution that is a party to the case to make its own constitutional interpretation according to its own version.

Source: Compiled by the author

Empirical data on the implementation of Constitutional Court rulings indicate that there are still instances of defiance against rulings that have attained final and binding legal force. Such defiance generally takes the form of issuing policies or establishing new norms whose substance once again contains provisions that had previously been declared unconstitutional by the Constitutional Court. This phenomenon demonstrates that the final and binding nature of Constitutional Court decisions has not yet been fully accompanied by constitutional compliance on the part of state institutions and public officials.

The fundamental issue that remains to this day is the absence of regulations specifically addressing defiance of Constitutional Court rulings. This regulatory gap results in the lack of legal instruments that can be used to hold state institutions or public officials accountable for failing to implement Constitutional Court rulings. This situation highlights the urgent need to establish more effective enforcement mechanisms, whether through the establishment of sanctions or by strengthening the Constitutional Court's authority to ensure the implementation of its rulings, as part of efforts to uphold the supremacy of the Constitution and strengthen the culture of constitutionalism in Indonesia.

Constitutional Disobedience as a Corrective Mechanism in the Constitutional System

The concept of constitutional disobedience did not emerge as a standalone theory, but rather evolved from debates regarding

the relationship between the constitution, state power, and the right to challenge actions deemed contrary to constitutional values (Scheuerman 2019). Its intellectual roots can be traced back to the concept of civil disobedience, which had previously developed within political philosophy and legal theory (Susanto 2021).

The concept of civil disobedience gained attention through the ideas of Henry David Thoreau, who argued that citizens are not always obligated to obey the law if it conflicts with justice (UDOFIA 2023). In Thoreau's view, disobedience is not an anarchic act, but rather a form of moral resistance against the exercise of power that deviates from higher values (Bentouhami 2007). This idea subsequently influenced the development of theories of disobedience used in various social and political movements. Constitutional conflicts arise not only between citizens and the law but also among state institutions regarding the meaning and implementation of the constitution. These conditions have given rise to a discourse on constitutional disobedience, a form of disobedience related to the implementation and interpretation of the constitution in the realm of state governance (Sabir 2023).

The development of the concept of modern constitutional disobedience has been greatly influenced by Larry D. Kramer's ideas through his theory of popular constitutionalism.(Post 2019) Kramer rejects the view that places the courts as the sole authority in determining the meaning of the constitution (Chemerinsky 2019). According to him, the interpretation of the constitution also involves the public and political institutions as part of the constitutional process. This line of thought serves as a critique of the rise of judicial supremacy, the view that positions the courts as the ultimate, indisputable interpreters of the constitution (Ahmad 2023).

This idea opens the door to the view that disagreement with a court's interpretation of the Constitution is not always

tantamount to a violation of the Constitution. Differences of opinion regarding the meaning of the Constitution can be part of the dynamics of constitutional democracy. The Constitution is not viewed as a document monopolized by judges, but rather as belonging to the entire political community living under it.

A more explicit development regarding constitutional disobedience emerged through the ideas of Louis Michael Seidman in his work *On Constitutional Disobedience* (Baxter, n.d.). Seidman criticizes the tendency to treat the constitution as an authority that must always be obeyed without room for debate (Mathen 2015). According to him, constitutional practice demonstrates situations where political actors and the public do not rigidly follow the text of the constitution, yet this actually leads to better democratic outcomes. This line of thought broadens the meaning of disobedience from a mere violation of the law to a debate over how to interpret the Constitution. This development is closely related to the concept of the “living constitution” – the view that the constitution is a living document whose meaning can evolve in response to social and political changes and the needs of society. This allows for differing constitutional interpretations to emerge between one state institution and another (Silalahi 2026).

Constitutional disobedience is not always viewed as a negative act. Some scholars see it as a corrective mechanism against the possibility of one state institution dominating the interpretation of the constitution. This concern arises particularly when the constitutional court is positioned as the sole interpreter of the constitution. Any divergence of opinion regarding a court’s ruling risks being viewed as a violation of the constitution, even though constitutional debate is an integral part of democratic life.

The debate over constitutional disobedience is also linked to the tension between judicial supremacy and constitutional dialogue. Proponents of judicial supremacy argue that

constitutional court rulings must be fully complied with in order to uphold legal certainty and the supremacy of the constitution. Proponents of constitutional dialogue, on the other hand, emphasize the importance of dialogue among state institutions in determining the meaning of the constitution without this being viewed as a form of defiance.

Discourse on constitutional disobedience has begun to emerge in Indonesian constitutional law studies as issues surrounding the implementation of Constitutional Court decisions have increased. Constitutional Court decisions, which are final and binding, are not always fully implemented by state institutions. This situation has given rise to studies on constitutional compliance and constitutional disobedience as two interrelated concepts in the implementation of Constitutional Court decisions. The concept of constitutional disobedience can ultimately be understood as an effort to maintain a balance between the supremacy of the constitution and the limitation of power in a democratic state. This concept has evolved as a response to the possibility of one state institution dominating the interpretation of the constitution and is used to explain the dynamics of compliance with and non-compliance with the constitution in modern constitutional practice (Pravidjayanto 2024).

Judicial Orders as a Mechanism for Controlling Constitutional Disobedience

The final and binding decisions of the Constitutional Court are essentially a form of constitutional command that must be obeyed by all state institutions and citizens. The Constitutional Court's role as the guardian of the Constitution makes its decisions a vital instrument in upholding the supremacy of the Constitution and overseeing the exercise of state power (Amin 2025). The final nature of these decisions means that Constitutional Court rulings acquire the force of law as soon as

they are pronounced, and no further legal remedies are available, while their binding nature means that these decisions apply universally (*erga omnes*) and must be implemented by all state organs. Problems arise because this final and binding force is not accompanied by adequate enforcement mechanisms (Mutiara Miyonita 2024). The Constitutional Court has no coercive power, no enforcement apparatus, and no direct mechanisms to ensure the implementation of its rulings. This situation means that the effectiveness of the Constitutional Court's decisions depends heavily on the constitutional compliance of other state institutions. Constitutional practice shows that many Constitutional Court decisions face delayed compliance, partial compliance, or even non-compliance, particularly those that are non-self-executing and require follow-up legislation or administrative action.

These conditions have given rise to the phenomenon of constitutional disobedience—that is, noncompliance with constitutional orders contained in Constitutional Court rulings. This can take the form of delaying implementation, disregarding the ruling's directives, or even reinstating norms that had previously been declared unconstitutional. Such noncompliance indicates weaknesses in the constitutional enforcement mechanisms within Indonesia's system of government and creates room for institutional resistance to Constitutional Court rulings. This situation underscores the need for a control mechanism capable of ensuring the effective implementation of Constitutional Court rulings. One instrument that can be utilized is a judicial order as a more operational form of constitutional command. A judicial order is a constitutional directive issued by the Constitutional Court to state institutions to implement or follow up on a ruling in a clear and measurable manner. The existence of judicial orders enables the Constitutional Court to provide guidance on the implementation of rulings, determine the specific follow-up actions that must be taken, and set deadlines for

implementation so that rulings are not subject to continuous delays (Triyadi 2026).

A judicial order is not intended as an instrument for expanding judicial power or as a means for the Constitutional Court to assume the functions of the legislative and executive branches. Their application must remain grounded in the principles of constitutional limitation, judicial restraint, and checks and balances. Judicial orders are best understood as a mechanism for constitutional coordination among state institutions to ensure that Constitutional Court rulings are effectively implemented without disrupting the balance among the branches of government. The existence of judicial orders is crucial to preventing a crisis of constitutional effectiveness. The supremacy of the Constitution is determined not only by its normative status as the supreme law but also by the state's ability to ensure that constitutional rulings are actually implemented. Constitutional Court rulings that are not implemented will ultimately undermine the authority of the Constitution and erode public trust in the legal system.

The implementation of judicial orders in practice still requires clearer and more definitive regulations, as there are currently no regulations that specifically govern this authority. Based on the follow-up to several Constitutional Court decisions, the implementation of judicial orders can essentially be carried out through two mechanisms: legislation and regulation. State institutions that are the addressees of the decisions must also understand the substance of the decisions in context before amending laws or enacting new regulations, so that the constitutional objectives sought by the Constitutional Court's decisions can be effectively achieved (Siti Partiah 2021).

Conclusion

This study shows that constitutional disobedience is a real constitutional issue in Indonesia's system of government, as

various forms of noncompliance with Constitutional Court decisions – which are normatively final and binding – still occur. The supremacy of the Constitution as the foundation of the rule of law requires all state institutions to comply with Constitutional Court decisions as a manifestation of upholding the Constitution. The 1945 Constitution of the Republic of Indonesia does not explicitly address constitutional disobedience, thereby creating room for interpretation that, under certain conditions, may provide limited justification in cases of legal gaps, conflicts among constitutional norms, the impossibility of executing a decision, or the need for temporary constitutional corrections. The main issue does not lie in the legal force of the Constitutional Court's rulings, but rather in the weakness of the enforcement mechanisms for rulings that are non-self-executing, thereby creating an enforcement deficit and opening the door to constitutional disobedience. The construction of a judicial order can be positioned as a constitutional instrument to strengthen constitutional compliance by issuing clear, measurable, and binding orders to state institutions that are the addressees of Constitutional Court rulings.

Recommendations that can be put forward include the need to restructure the Constitutional Court's authority through amendments to the Constitutional Court Act that provide a legal basis for the enforcement of judicial orders, the establishment of boundaries on its authority that do not encroach upon the legislative and executive branches, the setting of timeframes for the implementation of non-self-executing decisions, and the creation of a sanctions mechanism for constitutional non-compliance to ensure the effectiveness of the Constitutional Court's decisions, strengthen the supremacy of the Constitution, and maintain the balance of the checks and balances principle within Indonesia's system of government.

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