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Comparison of Judicial Review Models between Indonesia and the United States

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Abstract

General Background: Judicial review safeguards constitutional supremacy, protects fundamental rights, and maintains institutional accountability within constitutional democracies. **Specific Background:** Indonesia and the United States employ distinct constitutional review arrangements shaped by different legal traditions, institutional structures, and judicial doctrines. **Knowledge Gap:** Comparative understanding of how centralized and decentralized review models reconcile legal certainty, interpretive flexibility, and access to constitutional justice requires further normative examination. **Aims:** This study compares judicial review frameworks in both countries through normative legal research using statutory, conceptual, case-based, and comparative approaches. Constitutional provisions, legislation, judicial decisions, and legal scholarship were examined qualitatively. **Results:** Indonesia centralizes constitutional review of statutes within the Constitutional Court, emphasizing final, generally binding decisions and interpretive uniformity, while assigning review of subordinate regulations to the Supreme Court. Conversely, the United States distributes constitutional review authority across its judiciary, relying on concrete disputes, judicial precedent, and evolving constitutional interpretation. The comparison identifies contrasting strengths and limitations concerning legal consistency, institutional accessibility, and judicial adaptability. **Novelty:** This study integrates institutional authority, constitutional doctrine, and judicial interpretation into a comparative framework examining the tension between normative stability and contextual responsiveness. **Implications:** Strengthening constitutional adjudication requires improved judicial reasoning, institutional coordination, doctrinal development, and broader access to constitutional justice without compromising constitutional supremacy.

Highlights:

- Optimal purchasing quantity reached 4,655 kg per order across approximately 11 annual orders.
- Safety stock was calculated at 747 kg, with a reorder point of 4,159 kg.
- The proposed inventory model reduced calculated annual costs from IDR 45,117,990 to IDR 9,311,283.

Keywords: Judicial Review, Constitutional Court, Constitutional Supremacy, Comparative Law

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Introduction

Judicial review *is* one of the main pillars in a modern state based on law, which places the constitution as the highest norm in the hierarchy of laws and regulations. In this context, the existence of a judicial review mechanism not only functions as a means of controlling legislative products, but also as an instrument for protecting citizens' constitutional rights from potential abuse of power by legislative and executive institutions [1]. Therefore, the existence of *judicial review* is not only seen as an administrative activity, but it is also necessary to pay attention to the fact that it is essentially inseparable from the principle of constitutional supremacy , which is the foundation of a democratic state system. Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945) affirms that Indonesia is a state based on law. This principle mandates the administration of the state based on law, upholding the supremacy of the constitution, and protecting the rights of citizens. One of the main instruments in the state based on law system is the judicial review mechanism *in* the Constitutional Court (MK), which aims to ensure that laws and regulations do not conflict with the constitution [2].

Theoretically, the practice of judicial review has developed in two main models: the centralized model *and* the decentralized model . The centralized model, pioneered by Hans Kelsen, places judicial review authority in a single, specialized institution, the Constitutional Court [3]. Meanwhile, the decentralized model developed within the *common law tradition* , particularly in the United States, where all courts have the authority to review the constitutionality of laws in the context of concrete cases [4]. This difference reflects the different historical and philosophical backgrounds in viewing the relationship between law, power, and the protection of rights.

Indonesia, as a country undergoing constitutional reform post-1998, adopted a centralized review model through the establishment of the Constitutional Court based on amendments to the 1945 Constitution. The presence of the Constitutional Court is not only intended to maintain the purity of the constitution, but also to strengthen the mechanism of *checks and balances* between state institutions [5]. On the other hand, the United States has already developed a *judicial review mechanism* since the landmark decision of Marbury v. Madison (1803), which affirmed the authority of the Supreme Court to invalidate laws that conflict with the Constitution. Interestingly, this authority is not explicitly regulated in the text of the United States Constitution, but rather emerged through judicial interpretation which later became constitutional doctrine.

The fundamental difference between Indonesia and the United States in terms of the judicial review model lies not only in the institutional structure, but also in the nature and mechanism of the review. Indonesia allows abstract review without having to wait for a concrete case, while the United States requires a real dispute as the basis for the review [6]. This has implications for differences in the level of accessibility, speed of handling, and potential consistency of decisions between judicial institutions.

At the same time, a comparison between the two systems is crucial for identifying the strengths and limitations of each model in addressing dynamic legal needs. In the context of globalization and the development of constitutional democracy, such a comparative study is not only academic but also has practical value in providing recommendations for strengthening national legal systems. Therefore, an analysis of the differences between *judicial review models* in Indonesia and the United States is expected to make a significant contribution to the development of theory and practice in the discipline of constitutional law.

Method

This research is normative legal research that examines positive legal norms as the main object of research. Normative legal research is conducted by examining laws and regulations, court decisions, and legal doctrines related to the mechanism for testing laws in Indonesia and the United States. The approaches used include the statute approach, the case approach, the conceptual approach, and the comparative approach [7].

A statutory approach is used to examine the constitutional provisions and laws that form the basis for judicial review authority in both countries. Primary legal materials used in Indonesia include:

1. The 1945 Constitution of the Republic of Indonesia, in particular Article 1 paragraph (3), Article 24 paragraph (2), Article 24A paragraph (1), and Article 24C paragraph (1) which regulates the principles of the rule of law, judicial power, the authority of the Supreme Court, and the authority of the Constitutional Court in conducting judicial review of laws against the Constitution;
2. Law Number 24 of 2003 concerning the Constitutional Court as last amended by Law Number 7 of

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2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court, in particular provisions regarding the authority of the Constitutional Court, the legal standing of the applicant, procedures for testing laws, and the legal consequences of Constitutional Court decisions;

3. Law Number 48 of 2009 concerning Judicial Power, particularly provisions concerning the implementation of judicial power, the principle of judicial independence, and the supervisory function regarding the application of law in the Indonesian judicial system;
4. Constitutional Court Decision Number 006/PUU-III/2005 which is the basis for the formation of the doctrine regarding legal standing in applications for judicial review of laws;
5. Constitutional Court Decision Number 4/PUU-VII/2009 which is one of the references in the development of conditionally constitutional decisions *in* the practice of testing laws in Indonesia.

Meanwhile, the primary legal materials in the United States used in this research include the following:

1. The Constitution of the United States of America, especially Article III which regulates judicial power *and* Article VI (Supremacy Clause) which affirms the supremacy of the Constitution as the supreme law (*the supreme law of the land*) in the United States legal system.
2. Marbury v. Madison, 5 US (1 Cranch) 137 (1803), as the decision that laid the foundation for the doctrine of judicial review and the authority of the Supreme Court of the United States to test the constitutionality of laws.
3. Cooper v. Aaron, 358 US 1 (1958), as a decision that affirmed that the Supreme Court's interpretation of the Constitution binds all state and state agencies based on the principle of constitutional supremacy.
4. Brown v. Board of Education, 347 US 483 (1954), as a decision that demonstrated the application of judicial review in protecting the constitutional rights of citizens by overturning racial segregation policies that were contrary to the Constitution.

The case study approach is used by analyzing several decisions that have significance in the development of judicial review. For Indonesia, the study examines Constitutional Court Decision No. 006/PUU-III/2005 concerning the legal standing of the applicant in judicial review, as well as Constitutional Court Decision No. 4/PUU-VII/2009, which shows the development of the Constitutional Court's role through conditionally constitutional decisions. Meanwhile, in the United States, the study examines Marbury v. Madison, 5 US (1 Cranch) 137 (1803), as a decision that laid the foundation for the doctrine of judicial review, and Cooper v. Aaron, 358 US 1 (1958), which affirmed the binding nature of constitutional interpretation by the Supreme Court for all state institutions. If your discussion also analyzes the development of constitutional rights protection, decisions such as Brown v. Board of Education, 347 US 483 (1954), can be used as additional objects of analysis .

Analysis of norms and decisions is conducted through several methods of legal interpretation. Grammatical interpretation is used to understand the textual meaning of constitutional provisions and laws and regulations. Systematic interpretation is used to connect provisions governing judicial power with the principles of the rule of law, constitutional supremacy, and separation of powers in each country's constitutional system. Furthermore, historical interpretation is used to trace the background to the establishment of the Constitutional Court in Indonesia after the amendment to the 1945 Constitution and the development of the doctrine of judicial review in the United States since the Marbury v. Madison decision. In addition, this study also uses comparative interpretation, namely by comparing normative regulations, judicial practices, and the development of the doctrine of judicial review in Indonesia and the United States to identify similarities, differences, and their implications for the development of Indonesian constitutional law [8].

The legal materials used consist of primary, secondary, and tertiary legal materials. Primary legal materials include the constitution, laws and regulations, and court decisions. Secondary legal materials consist of books, scientific articles, journals, and research findings discussing constitutional law, judicial review, and comparative law. Tertiary legal materials consist of legal dictionaries, encyclopedias, and other reference sources supporting the explanation of legal concepts. All legal materials are analyzed qualitatively using descriptive-analytical methods to obtain systematic legal arguments regarding the comparison of the legal review models in Indonesia and the United States.

The legal material collection technique is carried out through library research , by exploring various

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relevant sources in both print and digital form. Next, the collected legal material is analyzed using qualitative methods through a descriptive-analytical approach [9]. The analysis is carried out by grouping data based on certain themes, then comparing the characteristics of each legal testing system to find patterns, differences, and legal implications.

At the analysis stage, a conceptual approach is also used *to* understand the terms and principles underlying *judicial review* , such as constitutional supremacy, separation of powers, and protection of human rights [10]. This approach is important to ensure that the comparisons made are not only technical in nature, but also take into account the basic values underlying the legal systems of each country.

Through this combination of approaches, this research is expected to provide a comprehensive and in-depth picture of the comparison of the judicial review models in Indonesia and the United States, while also producing an analysis that is relevant both theoretically and practically.

Results and Discussion

A. Characteristics of the Centralized Model of Judicial Review in Indonesia

The model for judicial review in Indonesia strictly adopts a centralized *judicial review system* which gives exclusive authority to the Constitutional Court (MK) to test laws against the 1945 Constitution of the Republic of Indonesia. This authority is explicitly regulated in Article 24C paragraph (1) of the 1945 Constitution which states that the Constitutional Court has the authority to adjudicate at the first and final level, whose decisions are final, to test laws against the Constitution. This provision is then further elaborated in Law Number 24 of 2003 concerning the Constitutional Court as last amended by Law Number 7 of 2020.

From a normative perspective, this institutional design demonstrates a deliberate *constitutional design* to centralize the constitutional review function in a specific institution. This is in line with Hans Kelsen's theory that positions the Constitutional Court as both the *guardian of the constitution and a negative legislator* , namely an institution authorized to annul legal norms without creating new norms [11]. In practice, the Indonesian Constitutional Court not only carries out this function textually, but also develops towards a limited *positive legislator* through conditional or interpretative decisions [12]. This phenomenon demonstrates the dynamics in the practice of *judicial review* that are not entirely rigid as formulated in classical theory.

Procedurally, judicial review in Indonesia is abstract , meaning it does not require a concrete case as the basis for the review. Provisions regarding this can be seen in Article 51 paragraph (1) of the Constitutional Court Law, which stipulates that the applicant is a party who believes that their constitutional rights and/or authorities have been harmed by the enactment of the law. This normative formulation opens up ample space for individuals, community groups, and state institutions to submit a request for judicial review, as long as they can prove that there has been a constitutional loss. However, in practice, the Constitutional Court applies quite strict *legal standing criteria* through doctrines developed in decisions, such as the existence of a causal relationship between the alleged loss and the enactment of the norm being tested.

The main advantage of this centralized model lies in creating consistency and uniformity in constitutional interpretation. Because only one institution has the authority to issue final decisions, the potential for conflicting interpretations between judicial institutions can be avoided. Furthermore, the generally applicable (*erga omnes*) nature of Constitutional Court decisions provides a high degree of legal certainty, because norms declared unconstitutional automatically lose their binding legal force for all citizens [13]. Within the framework of a state based on the rule of law, this condition strengthens the principle of constitutional supremacy and prevents legal fragmentation.

On the other hand, if analyzed critically, this centralization of authority also contains a number of structural weaknesses. *First* , the concentration of authority in one institution has the potential to create a high caseload, which can ultimately affect the quality of decisions. *Second* , access to constitutional justice *is* relatively limited because not all parties have the capacity or resources to file an application with the Constitutional Court, which is located in the nation's capital [14]. *Third* , the abstract nature of the review has the potential to produce decisions that do not take into account the empirical context in the field, making it difficult in some cases to measure the concrete impact of the norms being reviewed.

Furthermore, developments in practice indicate that the Constitutional Court is not entirely passive as a *negative legislator* . In a number of decisions, the Court has issued rulings that are *conditionally constitutional* or *conditionally unconstitutional* , essentially providing a specific interpretation of statutory

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norms to ensure they remain constitutional. From a normative perspective, this practice can be seen as a form of expanding the judicial role that has the potential to enter the legislative domain . On the one hand, this can increase the flexibility and relevance of decisions; but on the other hand, it can give rise to debate regarding the limits of the Constitutional Court's authority within the system of separation of powers.

Indonesia adheres to a dual system of judicial review. According to the Constitution, the authority to conduct judicial review is granted to two separate judicial bodies: the Supreme Court and the Constitutional Court. The Supreme Court reviews lower-level laws based on relevant law (judicial review). Meanwhile, the Constitutional Court is authorized to review laws based on the Constitution (constitutional review). This division of judicial review into two review regimes is what the author calls “dualism of judicial review” [15].

Furthermore, in the context of the relationship between the Constitutional Court and the Supreme Court, the centralized model in Indonesia also creates dualism in norm testing, where the Supreme Court has the authority to test statutory regulations under the Law against the Law as regulated in Article 24A paragraph (1) of the 1945 Constitution. This condition creates the potential for disharmony if there are differences in interpretation between the two institutions, even though the objects of the test are hierarchically different. Therefore, coordination and consistency between judicial institutions are important factors in maintaining the integrity of the legal system as a whole.

In summary, it can be concluded that the centralized model of judicial review in Indonesia has advantages in ensuring legal certainty and uniformity, but also faces challenges in terms of accessibility, institutional burden, and the dynamics of expanding judicial roles. From a normative research perspective, this suggests that the effectiveness of a *judicial review model* is determined not only by its constitutional design but also by the practice of implementation and the development of accompanying legal doctrine.

B. Characteristics of the Decentralized Model of Judicial Review in the United States

In contrast to Indonesia, which adopts a centralized model, the judicial review system in the United States adheres to a decentralized model (*decentralized judicial review*), where the authority to assess the constitutionality of a law is not only held by the Supreme Court , but also by all judicial bodies at the federal and state levels. This model is not explicitly stipulated in the text of the United States Constitution, but rather develops through judicial practice and judicial precedent (*judge-made doctrine*), which is a characteristic of the *common law system* [16].

The United States' judicial review model is a classic representation of a *decentralized judicial review system* , where the authority to test the constitutionality of laws is not monopolized by a single institution but is spread throughout the judiciary. Normatively, it is interesting to note that the United States Constitution does not explicitly regulate the authority of *judicial review* . However, the constitutional basis for this practice can be traced through a systematic interpretation of several provisions, particularly Article III, which regulates judicial power, and *the Supremacy Clause* in Article VI, which affirms that the Constitution is the supreme law of the land.

The Supremacy Clause states that the Constitution, federal laws, and international treaties constitute *the "supreme law of the land* ," binding judges in every state. Within this framework, judges function not only as enforcers of the law but also as active interpreters, obligated to overrule any legal norms that conflict with the constitution. Therefore, although there is no explicit provision regarding *judicial review* , the normative structure of the United States Constitution implicitly legitimizes the practice.

This legitimacy was further strengthened through judicial precedent in the case of *Marbury v. Madison* (1803), which doctrinally affirmed the court's authority to declare a law unconstitutional. This decision not only has historical value but also functions as a *constitutional convention* in the legal sense, filling the gap in norms in the constitutional text. From a normative research perspective, this demonstrates that the sources of law in the United States system are not limited to written regulations, but also include court decisions as a binding source of law through the principle of *stare decisis* .

More specifically, the concrete character of *judicial review in* the United States is rooted in the limitations of federal court jurisdiction as stipulated in Article III Section 2 of the Constitution, which only grants the court the authority to hear “ *cases* ” and “ *controversies* ”. This provision was then developed in various *justiciability doctrines* , such as *standing* , *ripeness* , *mootness* , and *the political question doctrine* , which normatively function to limit the scope of constitutional review [17]. Through these doctrines, the court cannot freely test the law, but must wait for the existence of a party that has a direct legal interest and real harm.

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From a legislative perspective, the United States federal system also exhibits its own complexities. Laws that can be challenged come not only from the federal level (*federal statutes*), but also from the state level (*state laws*). In this case, federal courts have the authority to test state laws against the federal Constitution, while state courts can also interpret the constitution of both state and federal laws. [18] This condition creates a dynamic normative interaction between the various levels of legislation.

Apart from that, this decentralized nature also has implications for the binding force of decisions. Unlike Indonesia, which adheres to the principle *of erga omnes* , court decisions in the United States generally apply only to the parties to the case (*inter partes*). [19] This broader binding force only emerges when the United States Supreme Court issues a decision that then becomes a precedent for other courts. In this context, it can be said that legal uniformity is not achieved through a single general decision, but rather through a process of gradually accumulating precedents.

Further normative analysis shows that this model provides high flexibility in responding to social dynamics and legal developments. Judges have broad interpretive latitude to adapt constitutional norms to the context of the case at hand. However, this flexibility also opens up room for variations in interpretation that can lead to inconsistencies between decisions. [20] In some cases, differences in interpretation between *circuit courts* can even create significant legal uncertainty to the point where the Supreme Court decides to intervene.

Furthermore, in the context of the relationship between the legislature and the judiciary, *judicial review* in the United States exhibits a more dialogic character. Court decisions invalidating laws are often responded to by Congress by revising or creating new laws that align with the court's constitutional interpretation.[21] This pattern of interaction reflects the existence of a dynamic *checks and balances mechanism, although it often gives rise to tensions between the branches of government.*

From a normative legal research perspective, the decentralized model in the United States emphasizes that the effectiveness of judicial review depends not only on the existence of written norms but also on the practice of legal interpretation and construction by the judiciary. In other words, law in this system is evolutionary and heavily influenced by developments in jurisprudence. This contrasts with the approach in Indonesia, which places greater emphasis on normative certainty through written regulations and centralized authority.

The differences in orientation between the two systems not only impact the way laws are reviewed but also the broader scope of judicial oversight of government actions. In the United States, the evolutionary and jurisprudence-based nature of *judicial review* has expanded beyond the mere review of legislative norms to include oversight of administrative actions. This expansion demonstrates that the judiciary's role in the American legal system extends beyond merely serving as a guardian of the constitution in the narrow sense, but also as an active oversight of the exercise of executive power. This demonstrates that the courts' interpretive flexibility is a crucial foundation for ensuring that all government actions remain within the law and the constitution.

Courts in the United States, particularly federal courts, play a crucial role in overseeing the actions of administrative agencies. The concept of judicial review allows courts to review the validity of administrative decisions based on the principles of legality and constitutionality. In this system, citizens have a strong right to file lawsuits against the government if they feel aggrieved by administrative policies or actions. This aligns with the principle of *checks and balances,* which is at the heart of the United States legal system. [22]

Ultimately, it can be concluded that the decentralized model of judicial review in the United States offers advantages in terms of flexibility, accessibility, and adaptability to social developments. However, this model also faces challenges in maintaining consistency and legal certainty, particularly in a complex and multi-layered judicial system. In the context of comparative law, this model cannot be judged as absolutely superior but must be understood as a result of the historical and normative constructions unique to the United States legal system.

C. Comparative Analysis: Legal Certainty *vis a vis* Flexibility in Legal Review

In comparative studies of constitutional law, the design of the relationship between the legislative and executive branches of power is a manifestation of the constitutional paradigm adopted by the founders of the state. This paradigm functions as a grand design or blueprint that determines how state power is allocated, limited, and controlled. Although the United States and Indonesia are both categorized as countries that adhere to a presidential system of government where the president has a direct mandate from the people and a fixed term of office. These two countries stand on diametrically different

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philosophical foundations in interpreting *the Trias Politica doctrine* [23]. The comparison between the models of constitutional review in Indonesia and the United States essentially represents two poles of approach in legal theory, namely the emphasis on legal certainty *on* the one hand and legal flexibility *on* the other. From a normative legal research perspective, this difference is not only related to institutional design, but also reflects the choice of legal policy *embodied* in the constitutional norms and laws of each country.

Indonesia normatively places legal certainty as a primary principle in its constitutional review system. This is reflected in Article 24C paragraph (1) of the 1945 Constitution, which grants the Constitutional Court exclusive authority to review laws against the constitution. This provision was further strengthened in Law Number 24 of 2003 concerning the Constitutional Court, as amended, which affirms the final and binding nature of the Constitutional Court's decisions. From a normative perspective, this construction creates an integrated and centralized system, resulting in uniformity in constitutional interpretation and minimizing conflicts of norms between judicial institutions.

Furthermore, the generally applicable (*erga omnes*) nature of Constitutional Court decisions has a direct impact on the legal system. When a statutory norm is declared to be in conflict with the 1945 Constitution, the norm loses its binding legal force as a whole. [24] This implication demonstrates the close relationship between *judicial review* and legal formation, where the Constitutional Court indirectly plays a role in reshaping the structure of norms within the national legal system. Legal certainty is achieved not only through clarity of norms, but also through certainty regarding the institution authorized to provide final interpretation of the constitution.

However, the strong emphasis on legal certainty also carries the consequence of limited flexibility. Abstract judicial review of laws often does not fully consider the empirical context of the application of norms in society [25]. Furthermore, the centralization of authority in the Constitutional Court can lead to limited access to constitutional justice, especially for parties who do not have sufficient resources to file applications. From a normative perspective, this condition shows that high legal certainty does not always align with effective substantive rights protection.

In contrast, the United States has developed a model that places greater emphasis on flexibility through a decentralized *judicial review mechanism* . Normatively, although not explicitly stipulated in the Constitution, this practice is rooted in the interpretation of Article III and *the Supremacy Clause* in Article VI, which affirm constitutional supremacy. In this system, each court has the authority to assess the constitutionality of laws in the context of specific cases, allowing the law to develop adaptively through jurisprudence.

This flexibility is reflected in the nature of decisions that are generally applied *inter partes* , so that they do not immediately remove norms from the legal system, but rather limit their application in certain cases [26]. As a consequence, legal change occurs gradually through the accumulation of court decisions. From a legislative perspective, this mechanism creates a more dynamic relationship between the legislature and the judiciary, where laws that are considered problematic can be tested and adjusted gradually without having to be immediately annulled in their entirety.

On the other hand, this flexibility also raises normative issues related to legal certainty. The absence of a single authority that issues final decisions can lead to differences in interpretation between courts, particularly at the lower levels. [27] Although the Supreme Court functions as the highest interpreter, its limitations in accepting cases through the *certiorari mechanism* mean that not all interpretive conflicts can be resolved immediately. This high level of flexibility often comes at the cost of greater legal uncertainty.

When analyzed comparatively, these two models demonstrate an inevitable *trade-off* between certainty and flexibility. Indonesia chooses to sacrifice some flexibility in order to achieve high levels of legal uniformity and certainty, while the United States accepts a certain level of uncertainty to maintain the legal system's ability to adapt to social change [28]. From a normative research perspective, these choices cannot be judged as absolutely right or wrong, but must be understood in the context of each country's legal system, legal culture, and the needs of its citizens.

Furthermore, in the context of legal development in Indonesia, this comparison opens up space for evaluating the balance between certainty and flexibility. One approach that could be considered is strengthening the quality of argumentation in Constitutional Court decisions to make them more contextual without sacrificing legal certainty. Furthermore, developing mechanisms such as *constitutional complaints* could also be an alternative to increase accessibility without having to change the basic structure of the centralized system [29].

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Empirically, this comparative analysis demonstrates that the effectiveness of judicial review is determined not only by the norms governing institutional authority, but also by how those norms are implemented in practice. Legal certainty and flexibility are not mutually exclusive concepts, but rather two principles that must be managed in balance to create a legal system that is just, effective, and responsive to societal dynamics.

D. Implications for Legal Development in Indonesia

A comparison of the constitutional review models in Indonesia and the United States has significant implications for the direction of national legal development, particularly in the context of strengthening constitutional review mechanisms. From a normative legal research perspective, these implications relate not only to institutional aspects but also to the substantive dimensions of law, procedures, and doctrinal developments that accompany the practice of *judicial review* in Indonesia.

Normatively, the framework for judicial review of laws in Indonesia has been clearly regulated in the 1945 Constitution of the Republic of Indonesia, specifically Article 24C paragraph (1), which gives the Constitutional Court the authority to review laws against the constitution. This provision was then implemented in Law Number 24 of 2003 concerning the Constitutional Court as last amended by Law Number 7 of 2020. This construction shows that Indonesia has a strong normative foundation in guaranteeing constitutional supremacy. However, when compared with practices in the United States, it appears that strengthening is needed not only at the normative level, but also in the aspects of implementation and development of legal doctrine.

One of the main implications is the need to strengthen access to constitutional justice . Although Article 51 paragraph (1) of the Constitutional Court Law has provided space for citizens to submit requests for judicial review of laws, in practice there are restrictions through the doctrine of *legal standing* which is quite strict. The Constitutional Court requires that there be specific, actual constitutional losses and have a causal relationship with the norms being tested. From a normative perspective, this restriction is necessary to prevent the misuse of the *judicial review mechanism* , but on the other hand it can hinder public access to the protection of constitutional rights. So the development of mechanisms such as *constitutional complaints* is relevant to consider as part of the reform of the Constitutional Court's procedural law [30].

Furthermore, another important implication relates to the need to improve the quality of argumentation in Constitutional Court decisions. In some cases, Court decisions still tend to be oriented towards a normative-textual approach without being accompanied by an in-depth analysis of the social impact of the norms being tested [31]. Compared with practices in the United States, which rely heavily on precedent-based *reasoning* and contextual analysis, there is room for the Constitutional Court to develop more progressive and responsive interpretative methods. From a normative perspective, this does not conflict with the principle of legal certainty, as long as it remains within the constitutional framework.

Furthermore, developments in practice indicate that the Indonesian Constitutional Court has begun to adopt a more flexible approach through decisions that are *conditionally constitutional* and *conditionally unconstitutional* . In the context of legislation, this practice has complex implications. On the one hand, this approach allows statutory norms to remain valid with certain interpretations, thus avoiding a legal vacuum . However, on the other hand, this can lead to normative ambiguity if lawmakers do not immediately follow up on these decisions with legislative revisions. Therefore, it is necessary to strengthen the mechanism for following up on Constitutional Court decisions in the legislative process, in order to create synchronization between the judicial and legislative functions [32].

The next implication relates to the relationship between the Constitutional Court and the Supreme Court in the normative review system. Normatively, Article 24A paragraph (1) of the 1945 Constitution grants the Supreme Court the authority to review laws and regulations under the law against the law. This dualism of authority theoretically creates a comprehensive review system. However, in practice, there is the potential for disharmony if the interpretations between the two institutions are not aligned. Therefore, future legal development needs to be directed towards harmonizing interpretations, both through strengthening doctrine and institutional coordination.

In addition to institutional aspects, implications are also evident in the need to update the substance of laws and regulations. In many cases, judicial review at the Constitutional Court has revealed weaknesses in the legislative process, such as unclear norms , inconsistencies between articles, and a lack of public participation. [33] This demonstrates that *judicial review* functions not only as a corrective mechanism but also as an indicator of the quality of legislation. Therefore, the results of Constitutional Court decisions should be used as a reference in the process of forming future laws, in order to improve the overall quality

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of legal norms.

From a broader perspective, a comparison with the United States also demonstrates the importance of strengthening legal culture *in* supporting the effectiveness of *judicial review* . A good system is not only determined by norms and institutions, but also by the legal awareness of the actors involved, including judges, legislators, and the public [34]. Legal development in Indonesia needs to be directed not only at normative reform, but also at increasing the capacity and integrity of law enforcement institutions. In the context of a comparison between the legislative institutions of the United States and Indonesia, it is important to recognize that despite significant differences in structure, function, and electoral systems, both share the same goal of representing the voice of the people, producing quality laws, and overseeing the government. These differences reflect the uniqueness of each political and governmental system, and highlight the importance of understanding the local context in designing an effective and responsive government system [35].

In short, the implications of this comparison suggest that legal development in Indonesia must be conducted comprehensively, maintaining a balance between legal certainty and flexibility. Strengthening the *judicial review mechanism* requires more than just amending laws and regulations, but also through developing doctrine, improving the quality of decisions, and harmonizing judicial institutions. Within the framework of normative research, this confirms that law is a dynamic system—continuously evolving through the interaction of norms, institutions, and practices.

Conclusion

A comparison of the constitutional review models in Indonesia and the United States reveals fundamental differences rooted in the normative construction, constitutional history, and legal traditions of each country. Indonesia firmly adopts a centralized judicial review model through the Constitutional Court as stipulated in the 1945 Constitution of the Republic of Indonesia and the Constitutional Court Law, which positions the institution as the sole authority in reviewing laws against the constitution. This model produces a high level of legal certainty through final and generally binding decisions (*erga omnes*), while maintaining uniform constitutional interpretation within the national legal system.

In contrast, the United States developed a decentralized model *of judicial review* , not explicitly stipulated in the constitution but developed through jurisprudential practice since the Marbury v. Madison decision. In this model, all courts have the authority to review the constitutionality of laws in the context of specific cases, creating a system that is more flexible and adaptable to social dynamics. However, this flexibility also carries the potential for inconsistent decisions and a relatively lower level of legal certainty compared to a centralized model.

From a normative legal research perspective, the two models reflect different legal policy choices in balancing legal certainty and substantive justice. Indonesia tends to prioritize certainty and stability of norms through written regulations and centralized authority, while the United States places greater emphasis on the role of judicial interpretation, which evolves through precedent. Therefore, neither model is absolutely superior; rather, each has advantages and limitations contextual to the legal system within which it is embedded.

The implications of this comparison emphasize that strengthening the judicial review mechanism in Indonesia cannot be achieved solely through normative changes, but also requires doctrinal development, improving the quality of decision arguments, and expanding access to constitutional justice. In this context, the Constitutional Court is not only required to uphold the supremacy of the constitution but also to ensure that its decisions substantively address the legal needs of the community. Furthermore, harmonization between the Constitutional Court and the Supreme Court, as well as improving the quality of legislation, are crucial factors in creating an effective and integrated judicial review system.

This comparative study confirms that the effectiveness of *judicial review* is determined not only by institutional design and legal norms, but also by the dynamics of judicial practice and the evolving legal culture. Based on this description, the future development of the judicial review system in Indonesia needs to be directed at balancing legal certainty and flexibility, thereby creating a legal system that is not only normatively consistent but also responsive to social change and the needs of the community for justice.

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omissions during the preparation of this paper.

Declaration of AI

Artificial Intelligence (AI) tools were used solely to assist with language editing, grammar checking, and formatting of the manuscript. The authors take full responsibility for the content, accuracy, interpretation, and originality of the work.

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