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The Role of the Constitutional Court As A Guardian of the Balance of Power Between State Institutions

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Abstract: Indonesia is a constitutional democracy with a system of government strictly regulated by the 1945 Constitution. In the Indonesian government's structure, the Constitutional Court plays a key role in maintaining the balance of power. The Constitutional Court is tasked with ensuring that the powers granted to state institutions, including the Executive, Legislative, and Judiciary, are not overlapped or abused and ensuring that all policies and actions are in line with the constitution. The 1945 Constitution mandates that the Constitutional Court carry out its main task: to test the Law against the 1945 Constitution, within the system of *checks and balances*, so that the Constitutional Court becomes a vital organ in maintaining legal stability and the balance of power between state institutions. In practice, the Constitutional Court faces many challenges from political or external interests that affect its policies and decisions. This research aims to discuss the Constitutional Court's role in supervising the power of state institutions to prevent abuse of authority that could harm the community and damage the Indonesian legal system. This research uses a normative juridical approach with descriptive analysis, based on laws and regulations, Constitutional Court decisions, and other related literature. The results of this research conclude that the Constitutional Court not only functions to maintain the supremacy of the constitution, but also serves as a bridge to balance power among state institutions with their own authority.

Keywords: Constitutional Court, Balance of Power, State Institutions

INTRODUCTION

Following the adoption of the fourth amendment to the 1945 Constitution, the Indonesian constitutional system changed. The system implemented emphasizes a functional horizontal division of power, replacing the previous vertical hierarchical system, in which the People's Consultative Assembly, as the highest state institution, was responsible for the highest power of the state (Putra, 2024). This shift resulted in the alignment of all state institutions with a clear division of functions. The Legislative Institution consists of the People's Consultative Assembly, the House of Representatives, and the Regional Representative Council. The President and Vice President run the Executive Board. The Judicial Institution is composed of the Supreme Court, the Constitutional Court, the Judicial Commission, and the Examining Institution, namely the Financial Audit Board. Thus, state institutions have different roles and functions according to their authority.

This change aims to strengthen the foundation of state management based on democratic principles by emphasizing a clear division of power, the implementation of a more open *system of checks and balances*, and the establishment of new institutions, namely the Constitutional Court, the Judicial Commission, and the Regional Representative Council. On the other hand, the Supreme Advisory Council was abolished because it was considered non-optimal, had overlapping functions with other institutions, and was considered no longer relevant to the times.

Article 1, paragraph (2) of the 1945 Constitution emphasizes that sovereignty is in the hands of the people and is implemented according to the Constitution. The existence of these changes has implications for relations between state institutions, such as the highest-mandated state institutions serving as the central fortress of dependence on other state institutions. This system emphasizes that the power of one institution and that of another are separate, although each institution still has a functional relationship in its implementation. (Igirisa et al., 2025).

The presence of the Constitutional Court after the third amendment to the 1945 Constitution is a consideration for the constitutional system of the state of law, which must have an institution that can realize the system of checks and balances that Abdurahman Wahid advocated regarding the separation of cases that lack a legal mechanism. (Hidayah, 2025). After a long process, it was finally ratified on August 13, 2003, as stipulated in Law Number 24 of 2003. So that the Constitutional Court has a strategic role in realizing a *system of checks and balances* in the Indonesian constitutional order.

The *checks-and-balances mechanism* is an essential element that should be echoed to prevent the abuse of power by state institutions. However, in practice, there is often still a wedge of authority between institutions and actions that are not in line with the constitution. For example, the Executive Institution's dominance in the policy-making process often drowns out the interests of the people and constitutional values. At this point, the Constitutional Court plays an important role in supervising to ensure that all policies used by the Executive Institution remain in line with the Constitution. (Kurniawati & Rohmah, 2024)

In constitutional practice, the presence of the Constitutional Court serves as a counterweight to the authority to make laws, balancing the power to make laws in the hands of the House of Representatives and the President. This role aims to ensure that every law enacted remains in harmony with the principles of the constitution and does not justify the emergence of majority dominance by either the House of Representatives, the people's representative, or the President, who obtains a mandate directly from the people. Thus, the Constitutional Court plays a role as a *counter-majoritarian institution*. The authority given to the Constitutional Court to test laws against the 1945 Constitution (judicial review) is based on the principle that implementing a checks-and-balances mechanism among the Legislative, Executive, and Judicial branches of power is important. If the mechanism in the *judicial review system* carried out by the Constitutional Court contains provisions that violate the constitution, then the Constitutional Court has the authority to cancel those provisions, thereby maintaining the supremacy of the constitution.

Indonesia, as a democratic country, implements the *system of checks and balances* as the main pillar of its democratic system. This principle serves to prevent the abuse and centralization of power within certain institutions. The *system of checks and balances* can only be effective if each institution involved has balanced power.

The Constitutional Court in Decision No. 1-2/PUU-XII/2014 regarding the *system of checks and balances* based on the 1945 Constitution emphasized the relationship between state institutions that limit each other's authority based on the principle that power is limited by power, not in the sense of supervising each other (power supervises other power), let alone controlling each other (power controls other power) (Mahkamah Konstitusi, 2014). The

application of *checks and balances* prevents the dominance of any one branch of power, thereby creating a balance of power.

In addition, the Constitutional Court has the authority to resolve disputes between state institutions. Through this function, the Constitutional Court acts as a party that resolves conflicts between the Executive and the Legislature, and ensures that each institution performs its functions and exercises its authorities in accordance with the provisions of the 1945 Constitution. Furthermore, the Constitutional Court serves as the guardian of the sustainability of democracy by overseeing every decision issued by the Executive and Legislative Institutions in the same direction and in a manner that does not deviate from the provisions of the constitution.

The Constitutional Court's authority as an independent institution to maintain democratic values and prevent deviations in authority triggers many interventions in every policy or decision it issues. There are many challenges, especially those that lead to the politicization of external interests, which hampered the Constitutional Court's decision. Therefore, this article provides insight into the role of the Constitutional Court in becoming an independent institution of the Indonesian constitutional system, which plays an important role in maintaining the balance of authority between state institutions through the system of *checks and balances*, and reviews the obstacles faced by the Constitutional Court in the implementation of decisions and the existence of certain public policy interventions.

METHODS

This research adopts a normative juridical approach, examining Indonesian laws and regulations, particularly those related to the Constitutional Court's role in maintaining the balance of power among state institutions. The method used is an analytical-descriptive approach that aims to systematically and in-depth describe the Constitutional Court's role in ensuring a balance of power among state institutions in Indonesia. The type of research used is qualitative with a literature study approach. The initial stage of research involves collecting data from related literature, then compiling and grouping it based on previous journals. Then, the data is analyzed through processing and appropriate reference review, and finally presented as research results. All collected data will be summarized and explained to produce a comprehensive conclusion relevant to the topic.

RESULTS AND DISCUSSION

The Constitutional Court was born in Indonesia on the idea of Moh. Yamin in the BPUPKI (Investigative Agency for Preparatory Efforts for Indonesian Independence) session. He proposed that the Supreme Court also handle constitutional cases. However, the proposal was rejected by Soepomo because:

1. Indonesia's constitutional system does not adhere to the separation of powers, but the division of powers.
2. The task of the panel of judges is only to apply the law, not to test it;
3. The position of the People's Consultative Assembly (MPR) was still the highest institution of the state (at that time);
4. Indonesia does not yet have a rule of law.

The idea of establishing the Constitutional Court then developed in line with Indonesia's need, as a legal country, to have an institution that can implement the principle of checks and balances, as once proposed by Abdurrahman Wahid to separate cases that do not yet have a clear legal mechanism.

Finally, the Constitutional Court was officially established on November 9, 2001, in line with the MPR's ratification of the Third Amendment to the 1945 Constitution, and the Constitutional Court's authority is set out in Articles 24 paragraph (2), 24C, and 7B of the 1945

Constitution. In the process, the House of Representatives and the Government took a long time to draft a Bill on the Constitutional Court, which was finally enacted as Law Number 24 of 2003 on August 13, 2003. The inauguration of the judges of the Constitutional Court was held on August 16, 2003, at the State Palace (Kurniawati & Rohmah, 2024).

In the Indonesian constitutional order, the Constitutional Court serves as the guardian of the constitution, tasked with ensuring that the constitution is implemented and respected by all state administrators, including all Indonesian people. Then, the Constitutional Court plays the role of being the main interpreting authority for the constitution as well as the protector of the constitution and democracy, as mandated in the 1945 Constitution, making it not only the guardian of the constitution, but also the guardian of democracy, because the constitution basically contains various basic principles that are fundamental, including equality in the eyes of the law, certainty of the protection of human rights, and regulation of the national economic system (Sulistiyowati, 2026).

Normatively, four main foundations underpin the Constitutional Court's constitutional basis. First, the presence of the Constitutional Court is a result of the application of the principle of constitutionalism, which emphasizes the importance of restricting and supervising state power to ensure it remains in line with the constitution. Second, the establishment of the Constitutional Court is intended to serve as a checks-and-balances mechanism, to maintain harmony among state power institutions. Third, the Constitutional Court plays a role in creating a clear, transparent, and free government by preventing the abuse of power. Fourth, this institution was also established to strengthen the protection of human rights, in accordance with the mandate of the constitution, while ensuring respect for the rights of citizens guaranteed by the constitution through the framework of the state of law based on democratic principles.

In addition, after four stages of amendments to the 1945 Constitution, Indonesia adopted a new rule in response to Soepomo's views, namely implementing a new system within its state order. The system implemented is relatively new for Indonesia, because it emphasizes the division of authority that is carried out in an equal manner based on the function of each institution (division of power) correcting the old principle of tiered and hierarchical, namely separation of power with the MPR as the highest state institution with unlimited authority (superior), so that no institution can correct it. This change resulted in the position of all state institutions becoming aligned, each with a different function, namely:

1. Legislature (DPR and DPD): make laws.
2. Executive (President and ministerial ranks): implements the Law.
3. Judiciary (Supreme Court, Constitutional Court, and KY): upholding law and justice.

The main consequence of implementing the separation of powers system is that state institutions are no longer considered the state's highest institution. Each institution derives its authority directly from the 1945 Constitution and is limited by it. After the amendment to the 1945 Constitution, the people's sovereignty was exercised in accordance with its provisions. Thus, sovereignty is spread across various state institutions that hold equal and equal positions.

In Indonesia, the practice of checks *and balances* serves as a control mechanism among state institutions. For example, the Legislative Institution plays a strategic role as the supervisor of government decisions by passing laws and overseeing the state budget. On the other hand, the Executive Branch has the authority to reject or veto bills passed by the Legislature. However, the veto can be overridden if the Legislature obtains the required majority, namely two-thirds of parliamentarians (Akbal et al., 2022). Meanwhile, the Judiciary, through the Supreme Court and the Constitutional Court, has the right to test the validity of Laws enacted by the Legislature and of decisions issued by the Executive. This authority imposes an important responsibility on the judiciary to ensure that every government decision remains in accordance with the constitution and does not violate the provisions and principles of applicable law.

The *system of checks and balances* needs to be implemented among institutions within the government to supervise one another in the performance of their duties and the exercise of their authorities. With this mechanism, it is hoped that there will be no accumulation of power or domination of authority by one particular institution, or at least it can be minimized. In addition, a more structured procedure is needed to ensure checks and balances operate optimally during the drafting of procedural laws. (Sulistiyowati et al., 2023).

If an institution exceeds the limits of its authority and fails to perform its role properly, issuing policies or legal products that are contrary to the constitution, the Constitutional Court will examine the matter and decide to annul the provision, thereby maintaining the supremacy of the constitution. The balance of power between state institutions can be created.

The authority carried by the Constitutional Court is written in Article 24C of the 1945 Constitution of the Republic of Indonesia in paragraphs (1) and (2), which are formulated as authorities and obligations. These authorities include:

1. Examining the Law against the 1945 Constitution;
2. Deciding disputes over the authority of state institutions whose authority is granted by the 1945 Constitution;
3. Decide on the dissolution of political parties;
4. Deciding the outcome of the general election.

The task of the Constitutional Court is to provide a decision on the proposal of the House of Representatives regarding alleged violations of the law committed by the President and/or Vice President.

1. Testing the Law against the 1945 Constitution

The birth of the Constitutional Court is the answer to the need for the Judicial Institution to have the authority to test the Law against the 1945 Constitution through a *judicial review mechanism*. Both the Constitutional Court and the Supreme Court have the right to a material test. However, the difference lies in scope: the Constitutional Court decides on an application for a material review of the Law against the 1945 Constitution, while the Supreme Court decides on an application for the right to review the material of laws and regulations under the Law. (Sulistiyowati Sulistiyowati et al., 2025).

Broadly speaking, *judicial review* is a supervisory procedure carried out by the Judicial Institution to validate the alignment of legal products produced by the Executive and Legislative Institutions that do not contradict or deviate from higher rules or the constitution, and becomes the main control tool in the *check and balance* mechanism to ensure that the legal product does not exceed the limits of its constitutional authority. (Sulistiyowati, Dewi Nadya Maharani, Indri Palindangan, 2024). This role is also important for anticipating potential abuses of authority that could undermine democratic values, including freedom of expression and the protection of minority groups. (Anggreni, Devi; Fuadi & Ibnu, 2024)

In carrying out its supervisory function, the Constitutional Court has the primary role of maintaining constitutional sovereignty. Indonesia is a country of law with a constitutional system. Thus, there should be no contradictory rules between the Laws (Setiawan, 2024). Every law drafted by the House of Representatives, together with the President, must be in line with the values and provisions contained in the 1945 Constitution. If a law is considered to violate citizens' constitutional rights or disrupt the balance of power among state institutions, the Constitutional Court can take the lead in repealing the law. The Constitutional Court is one of the institutions that carries out judicial functions (Safitri & Wibowo, 2023). The Constitutional Court has the authority to examine and decide cases at the first and last levels. The decision is final and binding, so it becomes an instrument of constitutional correction against the power of the Legislature and the Executive. (Sulistiyowati, 2025)

Jimly Asshiddiqie explained that the implementation of *judicial review* in Indonesia often faces various obstacles, especially under political pressure. He emphasized the importance of maintaining the Constitutional Court's independence so that the institution can carry out its functions objectively and free from external interference. (Putra, 2024).

In addition, there is debate within the internal sphere regarding the Constitutional Court's authority to exercise *judicial review*. Some parties argue that the 1945 Constitution serves only as the basis for the annulment of laws and regulations by the Constitutional Court, without granting authority to change the substance of the law. Meanwhile, others think that the Constitutional Court has the right to make changes or adjustments to the Law, as long as they are necessary to ensure the respect and enforcement of the constitution.

These various limitations illustrate that although the implementation of the *checks-and-balances system in Indonesia has progressed, further efforts are needed to improve and strengthen it so that this mechanism can function optimally in upholding democratic principles and preventing abuse of power.*

2. Deciding Disputes on the Authority of State Institutions whose Authority is Given by the 1945 Constitution

The supervisory duties of the Constitutional Court are also exercised through its responsibility for deciding authority disputes between state institutions in formal or administrative matters, as stipulated in the 1945 Constitution. This kind of dispute usually arises when there is an overlap or difference in understanding of the limits of authority between state institutions.

State institutions interact with one another according to the principle of checks and balances, which holds that all state institutions hold equal positions yet still supervise and control one another. (Natasha & Priskap, 2021). In fact, this often raises potential conflicts regarding the clarity of authority between state institutions, but, in the process of resolving them, it has been firmly regulated by the Third Amendment to the 1945 Constitution.

The relationship between functions and authorities within state institutions can lead to disagreements, especially regarding the implementation of constitutional authority. (Rohmah, 2023). The presence of the Constitutional Court is important in this context because it serves as both a constitutional guardian and an institution authorized to resolve the dispute.

Disputes over constitutional authority between state institutions can be caused by many factors, including:

- a. The emergence of layered regulations between state institutions as stated in the 1945 Law and Constitution;
- b. Other institutions ignore the authority of one state institution, but the fact is that the authority has been stipulated in the 1945 Law or Constitution.
- c. The exercise of the authority of a state institution is carried out by another state institution, even though its authority is not legally part of it (Wulandari et al., 2023).

Based on the Constitutional Court Regulation Number 08/PMK/2006 concerning Guidelines for Proceedings in Disputes, state institutions that can be both applicants and respondents, include the DPR, DPD, MPR, President, BPK, Regional Governments, and other state institutions whose authority is regulated by the 1945 Constitution.

The Constitutional Court's process for resolving authority disputes begins with the disputing party's application, followed by an administrative check and a record by the registrar. After that, the summons of the hearing, preliminary examination, and the announcement of the interlocutory verdict from the judge were held. If the dispute continues, the process will continue to the stage of trial, evidence, a judge's consultative

meeting, until finally the reading of the final decision by the panel of judges of the Constitutional Court.

3. Deciding on the Dissolution of Political Parties

Every individual or group has the right to form a political party recognized as a legal entity. According to Miriam Budiardjo, political parties are structured organizations because their members share the same goals and principles. Political parties are an important form of democracy because their main goal is to channel their best cadres into government positions determined by the people themselves through general elections.

In practice, it is not uncommon for political parties to commit violations until they are finally dissolved. This act of dissolution is a form of control of political parties that violate the rules or deviate from democratic principles.

Article 68 of Law No. 24 of 2003 on the Constitutional Court states that only the central government, under the leadership of the President, may submit an application to the Constitutional Court for the dissolution of political parties. The Constitutional Court, through its final decision, can decide that the party is proven to be contrary to the constitution. The dissolution procedure begins with the applicant's submission and registration of the application, followed by the trial, the judge's deliberative meeting, and the pronouncement of the final decision.

In applying for the dissolution of political parties, the government must pay attention to several important things, including:

- a. Political parties are not responsible for acts of members that act outside the authority of the party;
- b. The step of dissolving political parties needs to be done carefully and proportionately;
- c. Dissolution can only be pursued if it is necessary in a democratic system, and it is proven that there is strong evidence that a party has committed serious violations or irregularities.

4. Settling Disputes on Election Results

The occurrence of disputes in the general election process is natural, given the differences in views between the Election Commission and election participants. The increase in the number of applications submitted to the Constitutional Court due to the dissatisfaction of the unsuccessful parties, and the lack of a strong attitude of respect for the results of the victory of the other party (Mutiara & Hasna, 2024).

Under the procedural law of the Constitutional Court, to resolve the dispute over the election results, various aspects of the election implementation process must be considered. In deciding this kind of case, the Constitutional Court also assesses whether the holding of elections is in accordance with the principles of direct, public, free, confidential, honest, and fair (Luber and Jurdil). If it is proven that there are errors in the vote-counting process, the Constitutional Court can order a recount of votes. The parties who can submit a dispute over the election results include:

1. Indonesian citizens who are candidates for DPD members in the election;
2. Presidential and Vice Presidential Candidates who participated in the election;
3. Political parties that participate in elections.

Meanwhile, the respondent in this case is the Election Commission. The main problem in disputes over election results generally focuses on two factors: first, that the Election Commission considers there are errors in the vote count; and second, the difference between the results of the calculations considered valid by the parties to the dispute.

If this happens, restoring the principle of fairness in elections requires restorative measures, namely, holding re-elections in several areas where fraud is suspected to have been carried out in a structured, systematic, and massive manner. (Sulistyowati et al., 2024).

5. Pemakzulan (Impeachment) Presiden dan/atau Wakil Presiden

In etymological terms, the term impeachment means an indictment or a call to accountability. This process was carried out to prevent abuse of power by high-ranking state officials. In other words, impeachment serves as a supervisory mechanism to ensure the ruler carries out his duties and obligations in accordance with applicable regulations.

After the amendment to the 1945 Constitution, the authority to initiate impeachment proceedings against the President and/or Vice President became the Constitutional Court's duty. The Constitutional Court plays a role in checking, adjudicate and decide cases based on requests submitted from the House of Representatives.

However, the impeachment process does not necessarily result in the President and/or Vice President being automatically dismissed from office; the MPR makes the final decision. In this case, the House of Representatives acts as the petitioner, submitting arguments or opinions in the trial at the Constitutional Court.

The causes of the President and/or Vice President being dismissed through the impeachment mechanism include:

- a. Committing an act of treason against the state;
- b. Being involved in corruption or bribery cases;
- c. Committing a serious crime;
- d. No longer meets the criteria in his position as President and/or Vice President.

The fall of a state leader can greatly influence the course of state life. Without a president, a country is at risk of political and economic crises. The impeachment process can also serve as a lesson for other high-ranking officials to be more careful in their actions, because when a president can be removed, it serves as a warning that any violation of the law or reprehensible actions can have serious consequences (Sulistiyowati et al., 2024).

The first impeachment in Indonesia occurred during President Soekarno's administration. There were several factors behind Soekarno's dismissal, with the G30S/PKI incident on September 30, 1965, as the main cause. The incident was a failed coup attempt by the Indonesian Communist Party (PKI) and triggered a political and national security crisis. Sukarno was considered responsible because he was considered unable to control the PKI and failed to overcome the political and economic crises that hit the country. His dismissal process began on March 11, 1966, when he issued the Eleventh March Decree (Supersemar), which gave General Suharto the authority to restore national stability and order. Suharto then used the letter to strengthen his position in the government, and it became a sign that de facto President Sukarno had been impeached and replaced by Suharto.

Based on the Constitutional Court's authority under the 1945 Constitution, it is an institution tasked with maintaining the balance of power (checks and balances) among state institutions in Indonesia. In general, the existence of the Constitutional Court helps strengthen the application of the principle of the rule of law and the joints of democracy within the framework of the Indonesian government. Furthermore, the Constitutional Court also plays a role in the impeachment mechanism for the President and/or Vice President, as a constitutional mechanism to ensure that the highest state officials remain responsible for their positions and do not deviate from the provisions of applicable law. Thus, the Constitutional Court is authorized to examine, adjudicate, and make decisions on allegations submitted by the House of Representatives supported by legal basis and adequate evidence, so that this stage ensures the fulfillment of the principle of *due process of law* (Sulistiyowati, 2026). Overall, the Constitutional Court bears a fundamental responsibility to maintain the stability of Indonesian governance. With its functions and authority, the Constitutional Court not only upholds constitutional supremacy but also serves as the highest fortress to maintain democratic principles, protect human rights, and balance power among state institutions. The Constitution needs to uphold its position as the highest reference in the formulation of

every policy and the implementation of regulations by the government (Mungawanah et al., 2024).

CONCLUSION

The Constitutional Court is an institution born of the fundamental need to strengthen Indonesia's constitutional system, especially after the four amendments to the 1945 Constitution that overhauled the structure of state power from a tiered, hierarchical model to a horizontal division of power that affirms equality among state institutions. The presence of the Constitutional Court is not only complementary but also the most important constitutional instrument to ensure the equal distribution of power, to echo the principle of the rule of law, and to ensure that the sovereignty of the people is exercised in accordance with the mandate of the constitution.

As the guardian of the constitution and the protector of democracy, the Constitutional Court plays a strategic role in controlling the power of the Legislative, Executive, and Judicial Institutions to prevent overlapping or abuse of power. The judicial review mechanism makes the Constitutional Court the final arbiter of the constitutionality of a legal norm, so that the product of legislation can no longer be used to legitimize certain political interests or to give rise to the potential tyranny of the majority. With this authority, the Constitutional Court guarantees that every regulation is consistent with the basic values of the 1945 Constitution and the certainty of protection for citizens' constitutional rights.

In addition, the Constitutional Court's authority to resolve disputes among state institutions plays an important role in affirming the limits of constitutional power. With the potential for differences in interpretation and overlapping regulations among state institutions, the Constitutional Court serves as the final interpreter to ensure the exercise of power remains directed, proportional, and does not exceed the authority strictly regulated by the 1945 Constitution.

The Constitutional Court also plays a role in dissolving political parties and resolving disputes over election results. These two authorities affirm the Constitutional Court's position as the guardian of the quality of democracy. The dissolution of political parties is carried out carefully and only under measurable conditions to protect democratic stability without depriving citizens of political rights. Meanwhile, resolving the dispute over the election results adjudicated by the Constitutional Court also ensures that the election process is conducted in accordance with the principle of *Luber Jurdil*. Even in certain aspects, the Constitutional Court can order re-elections to restore the principle of justice when structured, systematic, and massive violations (TSM) are found.

However, in practice, the Constitutional Court faces serious challenges, especially regarding political intervention, resistance to power, and internal dynamics in the decision-making process. These challenges indicate that although the *checks-and-balances mechanism has been functioning*, institutional strengthening and procedural law reform are still needed. Judicial independence, transparency in decision-making, and improving the quality of procedural law are prerequisites for the Constitutional Court to carry out its duties effectively and free from external influence. With ongoing institutional strengthening, the Constitutional Court will remain an institution capable of upholding constitutional justice and ensuring democratic, accountable, and fair governance.

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