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Critical Analysis of Disputes on Authority Between Institutions In The Constitutional Court

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Abstract: The purpose of this scientific article is to provide an analysis of the Constitutional Court's authority in deciding when a dispute arises regarding the authority held by state institutions in Indonesia, using sources such as laws and regulations, journals, and online articles whose topics are relevant to this discussion. As is well known, Indonesia, as a state of law, always bases everything on written law, as well as on the Constitutional Court's authority to decide when a dispute arises regarding the authority of state institutions. Regarding the Constitutional Court's authority, it has been regulated by Article 24, Letter C, of the 1945 Constitution and the Constitutional Court Law. However, in practice, these regulations still face many challenges, especially regarding the double interpretation of which institutions have the right to dispute in the Constitutional Court over their authority. So it can be understood that, even though theoretically and legally there are already rules governing the Constitutional Court's authority to decide when a dispute arises regarding the authority of a state institution, more detailed rules are still needed on this matter to prevent ambiguity in interpreting the existing articles.

Keyword: Disputes over Authority; State Institutions; Constitutional Court

INTRODUCTION

Since August 17, 1945, Indonesia's independence day, Indonesia has developed significantly in all three areas: economically, socially, and culturally. As a unitary state, Indonesia has developed into a state governed by law, utilizing a system of division of authority among state institutions to uphold the principle of the rule of law and implement a system of checks and balances (Buljah Alaryahiyyah, 2025). A sound democratic system is a fundamental component of an honest and trustworthy government. In Indonesia, democracy is often fraught with conflicts and disputes, which can disrupt political stability and affect public trust in the government. (Sulistyowati, 2024c). This is in accordance with John Locke's concept of the separation of powers, namely the trias politica system. This system groups the mapping of a country's power into three groups, including the legislative, executive, and judiciary, to prevent a monopoly of power or power that rests on a single institution, so that later the existing institutions can control and supervise each other. In Indonesia itself, judicial institutions play a large role in the law enforcement process, comprising the Constitutional Court, the Judicial

Commission, and the Supreme Court, which oversees several judicial bodies. (Daniel Aritonang, 2024). It is hoped that this will create a system in which the general principles of good governance can be implemented proportionally and appropriately. This principle bridges the gap between two sides: the side viewed as normative demands and the side viewed through morals and ethics in the exercise of power. This principle will thus protect citizens from government abuses. (Sulistyowati, 2025a)

The Indonesian legal system, regarding the authority of a judge in carrying out his duties and authorities as stipulated by law, is exercised by an independent judicial institution without interference from any party. This requires synchronization among authorized legal institutions in enforcing the law; therefore, a system known in Indonesia as the one-roof judicial system exists. This system is implemented through Indonesian judicial institutions under the Supreme Court, including military, religious, state administrative, and general courts. (Sulistyowati, 2024a).

The authority of the Constitutional Court as determined by Article 24 Letter C Paragraph (1) of the 1945 Constitution and Article 10 of Law Number 24 of 2003 concerning the Constitutional Court, where the Constitutional Court has the authority to adjudicate both at the first and final level with its decisions being final and binding, conduct judicial reviews of laws that are deemed to be contrary to the Constitution, adjudicate and issue decisions regarding disputes over authority between state institutions whose authority is granted by the Constitution, issue decisions regarding the dissolution of political parties, issue decisions regarding disputes over election results, and issue decisions regarding the opinion of the DPR stating that the president and/or vice president has committed a crime such as treason, corruption, bribery, other crimes that are considered serious, committed a reprehensible act, and/or no longer has the appropriate criteria to be able to remain in office as President and/or Vice President. (Sulistyowati, 2024b). Since the Constitutional Court was established on August 13th, 2003, it has made many breakthroughs by determining how the judiciary can carry out its functions in upholding the law, which has had a major impact on public trust. As a country based on the supremacy of law and democracy, the Constitutional Court has the authority to oversee the implementation of the constitution in the form of regulations made by the legislative body, to ensure that every product produced by the legislature does not conflict with the basic values stipulated in the 1945 Constitution of the Republic of Indonesia. (Mawardi, 2025).

Along with several changes to the 1945 Constitution, namely the first in 1999, the second in 2000, the third in 2001, and the fourth in 2002. The most significant change is in Indonesia's institutional structure, where, after the fourth amendment, there is no longer an institution called the highest state institution. Before the amendment, the People's Consultative Assembly (MPR) was considered the highest state institution; after the amendment, the term "highest state institution" was removed and replaced with "high state institutions". With the change in terminology, the position of the People's Consultative Assembly was also equalized with other high state institutions, which are divided into legislative, executive, and judicial institutions, plus the BPK as an examination institution. In the old theory of governance, it was never thought that disputes could arise between state institutions based on inter-institutional authority; previously, if a dispute occurred between institutions, it was resolved only through political channels. Therefore, the Constitutional Court serves as an answer to the state's demands in resolving disputes over authority among state institutions. (Natasha, 2021).

METHOD

The method used is normative juridical, in which data are obtained through literature reviews of laws and regulations, scientific articles and journals, and legal theory. This is known as a library approach, in which the author searches and analyzes books, regulations, and

documents relevant to the topic at hand. In the context of qualitative research, the focus is to conduct an in-depth study of written regulations in legislation, then examine their implications, and determine how these regulations shape the system within a state of law. Through this study, the author can understand the focused event and find solutions to address legal problems and their implications for social life. (Sulistyowati, 2024). The author also uses normative research through an approach to the hierarchy of regulations in force in Indonesia, as well as a more conceptual approach. The approach through the hierarchy of regulations in Indonesia utilizes primary data in the form of laws and regulations as research material. The conceptual approach, on the other hand, is an approach to the legal system currently in effect, but where there are no, or currently no, norms that can serve as a basis for legal rules applicable to specific and concrete legal events or legal disputes. (Shalihah, 2022).

RESULTS AND DISCUSSION

The Indonesian Constitution, also known as the 1945 Constitution, is the highest-ranking regulation in the Indonesian legal hierarchy. Article 7, paragraph (1), letter a of Law No. 10 of 2004 on the Establishment of Legislation recognizes the 1945 Constitution of the Republic of Indonesia (UUD 1945) as the highest law in the Indonesian legal system. Furthermore, Article 3, paragraph (1) of Law Number 10 of 2004 stipulates that the 1945 Constitution serves as the basic law in the formulation of legislation. The explanation of Article 3, paragraph (1) of Law Number 10 of 2004 indicates that the 1945 Constitution, which contains the fundamental laws of the state, is the source of the legislation below it. The Constitution of the Republic of Indonesia itself has been amended four times since the proclamation of Indonesian independence was read. The First Amendment was enacted on October 19, 1999 at the MPR General Meeting in 1999, the Second Amendment was enacted on August 18, 2000 at the MPR Annual Meeting in 2000, the Third Amendment was enacted on November 9, 2001 at the MPR Annual Meeting in 2001, and the Fourth Amendment was enacted on August 10, 2002 at the MPR Annual Meeting in 2002. In the first amendment, changes were made to the president's authority, making it more limited and strengthening the position of the House of Representatives (DPR) as a state institution. In the second amendment, the changes covered issues regarding the state's territory, regional government, and the perfection of the first amendment by strengthening the position of the House of Representatives (DPR), as well as provisions regarding Human Rights. The third amendment included provisions on the basic principles of state affairs, state institutions, relations between state institutions, and General Elections. And in the fourth amendment, changes were made to aspects concerning state institutions and the relationships between them, the elimination of the Supreme Consultative Assembly of the Executive Board, matters concerning education and culture, economics and social welfare, as well as transitional rules and additional rules (Firdaus, 2022).

In the amendments to the 1945 Constitution, the most striking change was when, before the amendment, the People's Consultative Assembly (MPR) had the position of the highest institution in the Republic of Indonesia; it was changed to a high state institution, which means the position of the People's Consultative Assembly (MPR) is equal to other state institutions. In Indonesia, constitutional changes have had a significant impact on state administration at the central government, regional (city or district), and village levels. (Sulistyowati, n.d.). In the amendments to the 1945 Constitution, the most striking change was when, before the amendment, the People's Consultative Assembly (MPR) had the position of the highest institution in the Republic of Indonesia; it was changed to a high state institution, which means the position of the People's Consultative Assembly (MPR) is equal to other state institutions. In Indonesia, constitutional changes have had a significant impact on state administration at the central government, regional, city, district, and village levels. (Lasut, 2023). The explanation of Law Number 24 of 2003 concerning the Constitutional Court states that

Indonesia is a state based on law. The emergence of the Constitutional Court is an indication of the implementation and amendment of the 1945 Constitution of the Republic of Indonesia. The existence of the Constitutional Court as a guardian of the constitutional gate is expected to ensure the realization of the principles of good governance in the state of Indonesia and also represents an improvement over the old system of governance that gave rise to multiple interpretations of the constitution (Rustam, 2022). The Constitutional Court is not the same as the Supreme Court, which is common in countries that implement a democratic system. In their respective positions, the Constitutional Court and the Supreme Court are not dependent on each other, and vice versa; thus, these two organs stand alone. Generally, countries that establish a Constitutional Court in their constitutional environment are countries that have just switched to a democratic system of government. However, one of the problems here is that the Constitutional Court can create its own procedural law, which is often questioned as an abuse of power (Sulistyowati, 2023).

In carrying out its duties and responsibilities such as judicial review of laws, disputes related to general election results (PHPU) in legislative elections, regional head elections, inter-institutional disputes, dissolution of political parties, and disputes over presidential and vice-presidential elections, the Constitutional Court does not use specific procedural law as regulated in Civil Procedure Law and Criminal Procedure Law, but rather only in the form of Constitutional Court Regulations. Because of its authority in judicial review, the Constitutional Court is often referred to as a negative legislator. This term means that the Constitutional Court is not an institution that creates or makes written laws like the DPR or the government, which are the opposite of the Constitutional Court, namely as a positive legislator. The Constitutional Court only has the authority to cancel or delete laws deemed contrary to the Constitution. (Sulistyowati, 2025b).

When carrying out its duties and responsibilities, the Constitutional Court applies its own procedural law, which is set out in MK regulations. (Sulistyowati, 2023). Regarding the Constitutional Court's authority to resolve disputes over authority among state institutions, this is regulated in Article 10 of Law No. 24 of 2003 on the Constitutional Court. The resolution of disputes over authority between state institutions is limited, as only state institutions that derive their authority from the 1945 Constitution can resolve such disputes in the Constitutional Court (Laoh, 2025). The relationship among state institutions such as the MPR, DPR, DPD, and others is governed by the principle of checks and balances, namely, a mutual condition in which they control and supervise one another. As a result of this equal relationship, there is a high likelihood that, in carrying out the duties and authorities of each state institution, disputes or disagreements will arise, particularly in interpreting the mandate of the Constitution. If a dispute arises between these institutions regarding authority, a separate organ with authority to resolve such disputes is needed. In Indonesia, as regulated in the 1945 Constitution, specifically in Article 24C, paragraph (1), which states that the Constitutional Court carries out the mechanism for resolving disputes regarding the authority of state institutions (Shalihah, 2022). Following the Reformation era in Indonesia, state administration practices have frequently shown disputes over authority among state institutions, demonstrating a gray area in the division of power among them. This issue is reflected in the dispute between the Corruption Eradication Commission (KPK) and the Indonesian National Police over which institution has the authority to conduct investigations and prosecute corruption cases. This gray area is also evident in the dispute between the Regional Representative Council (DPD) and the House of Representatives (DPR) over the functions of both institutions as legislative bodies, as well as in other frequent disputes, especially those related to the central and regional governments. (Qodar, 2024).

From a theoretical perspective, state institutions are divided into two types: those whose authority is granted by the 1945 Constitution, meaning the power is constitutionally entrusted.

Second, those whose authority is granted by other legal regulations, meaning the authority is obtained through the legislative process. This classification is fundamental and aligns with Article 24C of the 1945 Constitution, which governs the Constitutional Court's authority. (Alfarisi, 2020). In a broad sense, the only thing that differentiates institutions is the function they perform in relation to state power or the legal source of their authority, whether derived from the 1954 Constitution or from other regulations governing them. The constitutional authority of a state institution exists when it is granted through the constitution. In situations where a state institution in the latter category arises from a dispute with another state institution in the exercise of its constitutional authority, this relates to the Constitutional Court's authority to adjudicate. This is what is meant by a dispute arising from the constitutional authority of a state institution that falls within the Constitutional Court's authority to adjudicate. Furthermore, Article 65 states that the Supreme Court cannot dispute and cannot act as the applicant or respondent in a dispute between state institutions regarding the authority of state institutions, as decided by the Constitutional Court. Thus, it appears that the law allows judges to interpret which individuals and state institutions may file disputes with the Constitutional Court. Therefore, even if it exists, the Constitutional Court Law still does not resolve the issue of the constitutional authority of state institutions. (Shalihah, 2022).

To exercise the powers derived from the 1945 Constitution, one must first understand the concept of granting power. Granting power is divided into two categories: attributive and derivative. Attributive grants power through the formation of power resulting from the acquisition of power, which previously did not exist. Power derived from attributive formation is considered original (*oorsponkelijk*). In other words, the attributive formation of authority produces new authority. Therefore, the characteristics of attribution of power are that the formation of power produces new power, and it must be carried out by a body regulated by law. (Lasut, 2023).

Regarding procedural regulations for resolving inter-institutional authority disputes, the Constitutional Court issued MK Regulation Number 08/PMK/2006, which governs the procedures. This regulation explains that the constitutional authority of state institutions under Article 1, Number 6 is an authority in the form of obligations imposed on state institutions by the 1945 Constitution. Furthermore, Article 2 of this Constitutional Court Regulation regulates which state institutions have the right or can become parties to a dispute in a case of dispute over the authority of state institutions in the Constitutional Court, namely the DPR, DPD, MPR, President, BPK, Pemda, or other state institutions whose authority is granted by the 1945 Constitution. (Laoh, 2025).

The Constitutional Court's procedural law is divided into two parts. The first covers general procedural rules, such as filing a petition, registering a petition, and scheduling a hearing, as well as evidence, preliminary examinations, trials, and decisions. The second covers more specific procedural law provisions, such as rules on judicial review of laws deemed contrary to the 1945 Constitution, disputes over the authority of state institutions, the dissolution of political parties, and disputes over general election results. (Sulistyowati, 2023).

However, the problem in resolving disputes over authority between state institutions in Indonesia remains the object and process of the dispute. The process used by the Constitutional Court, which the 1945 Constitution authorizes to adjudicate these disputes, remains problematic. The authority of state institutions remains subject to multiple interpretations. Article 24C, paragraph 1, of the 1945 Constitution substantially stipulates that the Constitutional Court has authority to adjudicate disputes concerning the authority of state institutions. However, there is no further explanation of the state institutions that then become the Constitutional Court's responsibility and the object of disputes over authority among state institutions in Indonesia. Referred to as "constitutional disputes over authority between state institutions," the Constitutional Court has the authority to resolve disputes regarding the

authority of state institutions, which authority is granted by the 1945 Constitution. In defining a constitutional dispute over authority, two conditions must be met: first, the constitutional authority is stipulated in the 1945 Constitution; second, the problem arises from different interpretations of the authority between institutions regulated by the Law (Shalihah, 2022).

Regarding the types of state institutions in Indonesia, Jimly Asshiddiqie groups state institutions into four different groups, including:

1. Those established based on the 1945 Constitution, which are then further regulated in Laws, Presidential Regulations, and Presidential Decrees;
2. Those established based on Laws, which are then further detailed in or through Government Regulations, Presidential Regulations, and Presidential Decrees;
3. Those established based on Government Regulations or Presidential Regulations, which are then further regulated through Presidential Decrees;
4. Those established based on Ministerial Regulations, which are then further regulated through Ministerial Decrees or decrees of officials under the Minister. (Amalia, 2022)

Following the amendments to the 1945 Constitution, it was then regulated with respect to state-owned institutions whose authority is granted by that Constitution. However, in this case, although the Supreme Court and the Constitutional Court are institutions that derive their authority from the law, they cannot both be parties to disputes over authority between state institutions within the Constitutional Court. Regarding the Constitutional Court, the reason for not being able to be a party in disputes over authority between state institutions is the principle of nemo judex idoneus in propia causa, which means that judges are not allowed to try themselves. The application of the principle of nemo judex idoneus in propia causa is also a form of effort to maintain impartiality, neutrality, and independence of a judge as an examiner of a case and a provider of justice. This aims to ensure that judges, in giving their decisions, consider them objectively based on the facts found during the trial, rather than subjectively. (Feri, 2020).

Based on the Constitutional Court Regulation, state institutions have the right to be parties to authority disputes before the Constitutional Court, namely the DPR, DPD, MPR, President, BPK, and regional governments. However, a different interpretation may arise under Article 2, paragraph 1, letter g, which states that other state institutions whose authority is granted by the 1945 Constitution may also litigate and be parties to cases concerning authority disputes before the Constitutional Court. (Lasut, 2023).

A comparison between the Indonesian Constitutional Court and the German Constitutional Court, known in its country of origin as the Bundesverfassungsgericht, demonstrates the effectiveness of the German system for resolving disputes between state institutions. This system allows German state institutions to file disputes over authority through clear and detailed procedures. Germany's success in resolving disputes over authority between state institutions in its Constitutional Court has made it a good example of the application of a dispute-resolution system among state institutions. It is important to note that the differences in the German system of dispute resolution between state institutions lie not only in the procedures but also in the philosophical approach to interpreting the Constitutional Court's role as an organ tasked with safeguarding the constitution. Germany has successfully developed and implemented a more advanced concept for carrying out the Constitutional Court's functions and authorities, not only as a guardian tasked with annulling laws and regulations that contradict the constitution's provisions, but also as a safeguard for maintaining balance among state institutions (Qodar, 2024).

In Indonesia, the rules regarding the procedure for filing a petition regarding disputes related to authority between institutions whose authority is granted by law are regulated in the

Constitutional Court Regulation Number 08 of 2006 concerning Guidelines for Proceedings in Disputes Regarding the Constitutional Authority of State Institutions, where these rules include matters such as procedures for resolving disputes regarding authority between state institutions, such as how to submit a petition until the decision of the Constitutional Court judge is issued. Then, in the 1945 Constitution, it is regulated regarding which state institutions can resolve disputes regarding their authority in the Constitutional Court, namely the DPR, MPR, President, BPK, Judicial Commission, Regional Government, and institutions whose authority is granted by the 1945 Constitution. Examples of other institutions whose authority is granted. Then, in submitting a petition, several things must be stated, such as which institution is the respondent and the reasons for the petition, which may arise from an imbalance in authority between state institutions or from the authority of a state institution being violated by another state institution. (Laoh, 2025).

As regulated in the Constitutional Court Regulations, the stages in disputes at the Constitutional Court regarding authority between state institutions include:

1. Submission of an Application
   Article 29 of the Constitutional Court Law stipulates that an application must be submitted in writing, in Indonesian, signed by the applicant or a person authorized by them, and made in twelve copies. The application must also state the applicant's complete identity, the main issue underlying the application, and the applicant's request (petitum).
2. Registration of the Application
   The Constitutional Court Clerk's Office checks the completeness of the application. If deficiencies are found in the application files within a maximum of seven working days of notification of the deficiencies, the applicant must complete the application. Once the deficiencies have been corrected within 14 days of the application being registered in the Registration Book, a schedule for the first hearing will be set, which must be notified to the parties and the public. The parties to the case must receive notification of the first hearing date at least 5 working days before the scheduled hearing.
3. Notification and Summons
   Article 38 of Law 24/2003 clearly states that the parties, witnesses, and experts must be present. The summons of the parties must be carried out properly, namely that the parties must receive the summons letter at least 3 days before the summons date.
4. Preliminary Examination
   Preliminary Examination: The Constitutional Court examines the completeness and substance of the petition before beginning to examine the main case. During the preliminary examination, the Constitutional Court must recommend that the applicant complete or revise the submitted petition within 14 days. If the preliminary examination indicates that the petition is incomplete or unclear, the judge must recommend that the petition be revised to clarify the petition's intent.
5. Trial Examination
   During this trial, the hearing is open to the public, except for the judges' deliberation session. As in a general trial, the panel of judges will examine all evidence, including documents, statements from the parties and witnesses, and expert testimony.
6. Judges' Deliberation Meeting (RPH)
   This is a closed meeting held by the judges to render a decision on the disputed case. This meeting is a meeting held by the judges to render a decision on the disputed case. This meeting is a closed meeting and must be attended by at least seven constitutional justices.
7. Decision Reading
   The Constitutional Court's decision-reading session is the final series of hearings held to resolve the case filed by the applicant or by a party authorized by the applicant. At this hearing, the panel of judges will read their decision on the applicant's application.

(Lasut, 2023).

CONCLUSION

Theoretically and legally, the Constitutional Court's authority to resolve disputes over authority among state institutions is stipulated in both the 1945 Constitution and the Constitutional Court Law. However, the application of the articles governing this matter remains problematic, as they are open to multiple interpretations by other parties. Furthermore, the Constitutional Court Law does not specify which state institutions can be involved in disputes regarding authority between state institutions. In the context of proceedings before the Constitutional Court, judges are authorized to determine which institutions may file a petition regarding authority with the Constitutional Court.

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