

Strengthening Democracy through Constitutional Oversight and Electoral Regulation

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ABSTRACT

This study aims to analyze the effectiveness of regulations in supporting democracy and protecting citizens' constitutional rights through Law Number 7 of 2017 concerning General Elections and Law Number 24 of 2003 concerning the Constitutional Court as lastly amended by Law Number 7 of 2020. The research employs a normative legal method with a comparative approach to examine the relationship between electoral regulation and constitutional oversight within a democratic system. The findings indicate that regulatory effectiveness is not merely determined by the existence of formal legal norms, but also by the consistency of law enforcement, the quality of constitutional supervision, and the protection of citizens' political rights. The Constitutional Court plays a significant role as the guardian of the constitution through the judicial review mechanism to ensure that regulations remain consistent with democratic rule of law principles. Furthermore, strengthening regulations and optimizing the function of the Constitutional Court are essential to creating a responsive, inclusive, and constitutionally just democratic system. Therefore, harmonization between electoral regulations and constitutional oversight is necessary to support a more effective and sustainable democratic development.

Keywords: *Constitutional Court; Constitutional Rights; Democracy; Electoral Regulation; Judicial Review.*

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1. | INTRODUCTION

A democratic state of law places the law as the main instrument in maintaining constitutional stability, protecting the constitutional rights of citizens, and ensuring that all the exercise of power is carried out based on constitutional principles. In the modern democratic system, the existence of regulations that regulate the constitutional mechanism is an important factor in creating a balance between state power and the protection of people's rights. Democracy is not only understood as the exercise of people's sovereignty through elections, but also as an effort to ensure justice, legal certainty, and the protection of human rights through an effective and equitable legal system. Therefore, the existence of regulations that regulate the electoral system and the authority of the constitutional judiciary are an important part of strengthening the quality of constitutional democracy in Indonesia.

Law Number 7 of 2017 concerning General Elections and Law Number 24 of 2003 concerning the Constitutional Court as amended last by Law Number 7 of 2020 are two regulations that are closely related to the development of the democratic system and constitutional enforcement. The General Election Law regulates the mechanism for the implementation of democracy through direct, public, free, secret, honest, and fair elections, while the Constitutional Court Law gives the Constitutional Court the authority to maintain the constitutionality of the law and resolve constitutional disputes. The relationship between the two regulations shows that the democratic system needs an instrument of constitutional supervision so that the exercise of state power does not conflict with the principles of the state of law and the constitutional rights of citizens (Satriawan & Lailam, 2019).

In constitutional practice, the effectiveness of regulations is often the main concern because the development of democracy gives rise to various legal dynamics that require adjustments to the needs of the community. Regulations that are less adaptive can cause legal uncertainty, inconsistency in law enforcement, and potentially reduce the protection of citizens' constitutional rights. Therefore, the existence of the Constitutional Court as a constitutional guardian institution has a strategic position in conducting legal testing of the 1945 Constitution of the Republic of Indonesia to ensure that every regulation remains in line with the principles of democracy and constitutionalism (Patra, 2022). This role shows that modern democracy does not only rely on the political process, but also on the effectiveness of legal mechanisms in controlling the exercise of state power.

In addition, the development of the democratic system also shows that strengthening the rule of law requires regulations that are able to provide a balance between legal certainty and substantive justice. In this context, judicial review is an important instrument to correct legal norms that are considered to be contrary to democratic principles and the constitutional rights of citizens. Judicial review not only functions as a monitoring mechanism for the formation of laws, but also as a means of

protection for the basic rights of the community in the constitutional system (Syahuri & Fahrozi, 2020). The existence of this mechanism shows that the effectiveness of regulations is greatly influenced by the ability of the constitutional judiciary to interpret and maintain constitutional values consistently.

On the other hand, various studies show that there are still challenges in the implementation of constitutional regulations, especially related to the consistency of decisions, the effectiveness of constitutional supervision, and the protection of citizens' political rights. Provisions regarding the electoral system and setting nomination thresholds, for example, often give rise to debates about the compatibility between the goal of government stability and democratic principles that ensure the equality of people's political rights (Al-Fatih, 2019). This condition shows that constitutional regulations must not only meet the formal legality aspect, but must also pay attention to the principle of substantive justice in order to be able to create an inclusive and constitutional democracy.

The urgency of discussing the effectiveness of regulations in a democratic system is also increasingly important considering the development of society that demands a responsive, transparent, and accountable legal system. Ineffective regulations have the potential to create public distrust of legal institutions and democracy itself. Therefore, strengthening regulations and optimizing the function of the Constitutional Court is an important part of maintaining the quality of democracy and protecting the constitutional rights of citizens (Diniyanto, 2018). In addition, strengthening the constitutional mechanism is also needed so that every state policy remains within the corridor of the constitution and the principles of a democratic state of law (Saifulloh, 2022).

Based on this description, this study asked two research questions. The first Research Question (RQ1) is how effective the arrangements in Law Number 7 of 2017 concerning General Elections and Law Number 24 of 2003 concerning the Constitutional Court in supporting the democratic system and the protection of citizens' constitutional rights. Furthermore, the second Research Question (RQ2) is why the discussion of the effectiveness of regulation and strengthening the role of the Constitutional Court is important in realizing a democratic and constitutionally fair state of law.

2. | RESEARCH METHOD

This study uses a normative legal method with a comparative approach to analyze the effectiveness of the regulation in Law Number 7 of 2017 concerning General Elections and Law Number 24 of 2003 concerning the Constitutional Court as amended last by Law Number 7 of 2020. A comparative approach is used to compare the interconnectedness of regulatory functions in supporting the democratic system and the protection of citizens' constitutional rights through constitutional oversight mechanisms. This method was chosen because the research focuses not only on textual legal norms, but also on the effectiveness of the application of regulations in supporting the principles of a democratic state of law. The comparative approach allows

researchers to see the compatibility between the purpose of regulatory formation and the implementation of the authority of constitutional institutions in constitutional practice.

This research uses primary legal materials in the form of the 1945 Constitution of the Republic of Indonesia, Law Number 7 of 2017 concerning General Elections, and Law Number 24 of 2003 concerning the Constitutional Court and its latest amendments. In addition, the research also uses secondary legal materials in the form of scientific journals, academic articles, and research results that discuss democracy, judicial review, constitutional rights, and the role of the Constitutional Court in the constitutional system. The collection of legal materials is carried out through literature studies by examining various relevant scientific references in the last five years so that the discussion remains contextual with the development of law and democracy this year.

The analysis technique is carried out in a descriptive-analytical manner by interpreting legal provisions and comparing the effectiveness of regulations in guaranteeing democratic principles and constitutional protection of citizens. The analysis was carried out by examining the relationship between legal norms, regulatory implementation, and the role of constitutional judicial institutions in maintaining a balance between legal certainty and substantive justice. This approach is used to gain an understanding of the urgency of strengthening regulations and optimizing the function of the Constitutional Court as a guardian of democracy in the modern legal state system (Satriawan & Lailam, 2019). In addition, a comparative method is also used to see the extent to which regulations are able to respond to the dynamics of democracy and the need to protect people's constitutional rights in a sustainable manner (Patra, 2022).

3. | RESULTS

The Effectiveness of Regulations in Supporting Democracy and the Protection of Constitutional Rights

The effectiveness of regulations in a democratic system is largely determined by the ability of the law to ensure the implementation of the principles of the rule of law, protection of constitutional rights, and supervision of the exercise of state power. In the context of Indonesian constitutionality, Law No. 7 of 2017 concerning General Elections and Law No. 24 of 2003 concerning the Constitutional Court have a close relationship in supporting the creation of constitutional democracy. The two regulations not only regulate the mechanism for the implementation of democracy through elections and constitutional supervision, but also become important instruments in maintaining a balance between legal certainty and substantive justice. The effectiveness of a regulation can be seen from the extent to which legal norms are able to be

implemented consistently and provide protection for citizens' rights in constitutional practice (Patra, 2022).

Law Number 7 of 2017 concerning General Elections was basically formed to realize direct, public, free, secret, honest, and fair elections as mandated by the constitution. The regulation regulates various aspects of election implementation, ranging from election participants, stages of implementation, political rights of citizens, to the mechanism for resolving election disputes. The presence of this regulation shows that the state is trying to create a democratic system that has legal certainty and is able to ensure public participation in the political process. However, the effectiveness of regulations is not only measured by the existence of legal norms, but also by the ability of these regulations to respond to democratic dynamics and people's needs for the protection of constitutional rights (Syahuri & Fahrozi, 2020).

In its implementation, the effectiveness of the General Election Law still faces various challenges, especially related to regulations that are considered not yet fully able to create equality of political rights. Provisions regarding the nomination threshold, for example, are often seen as restricting the rights of political parties and the rights of citizens in the democratic process. The regulation shows that election regulations have consequences for people's political access and the quality of democratic representation. Therefore, the effectiveness of regulations must be assessed not only on formal legality, but also on their ability to realize the principles of inclusive and just democracy (Al-Fatih, 2019).

In addition to the General Election Law, the effectiveness of democracy is also influenced by the role of the Constitutional Court Law which gives the authority to the Constitutional Court to conduct judicial review of laws. This authority is an important instrument in keeping every regulation in line with the constitution and does not contradict the constitutional rights of citizens. Judicial review is a constitutional oversight mechanism that functions to control legal products so that they remain in accordance with the principles of democracy and the rule of law. In practice, the Constitutional Court has a strategic role in interpreting legal norms and maintaining a balance between the interests of the state and the protection of people's rights (Satriawan & Lailam, 2019).

The effectiveness of constitutional supervision can be seen from various decisions of the Constitutional Court that seek to strengthen democracy and the protection of citizens' political rights. These rulings show that the Constitutional Court not only acts as an interpreting institution of the constitution, but also as a guardian of democracy that ensures that regulations do not deviate from the principles of constitutional justice. In this context, judicial review has an important function as a correction mechanism for legal norms that are considered incompatible with democratic and human rights values (Sadzali, 2022). Thus, the effectiveness of regulations cannot be separated from the effectiveness of constitutional oversight institutions in exercising their authority independently and consistently.

Nevertheless, the effectiveness of constitutional regulations still faces challenges in the form of inconsistencies in the application of legal norms and differences in interpretations of democratic principles. Some studies show that constitutional court decisions are sometimes seen as not fully reflective of substantive justice because they still focus on formal legality. This condition shows that the effectiveness of regulations is greatly influenced by the legal interpretation patterns used in the constitutional supervision process (Silaban, 2021). Therefore, strengthening the quality of decisions and consistency of constitutional interpretation are important factors in increasing the effectiveness of the democratic legal system.

On the other hand, the effectiveness of regulations is also influenced by the ability of the law to adapt to the development of society and the dynamics of modern democracy. Regulations that are rigid and less adaptive can cause legal uncertainty and reduce public trust in the democratic system. In this context, the Constitutional Court has an important role to play in ensuring that the law develops in accordance with the needs of society without neglecting constitutional principles. Progressive constitutional supervision can be an instrument to maintain the relevance of regulations to the development of democracy and the protection of citizens' rights (Diniyanto, 2018).

Furthermore, the effectiveness of democratic regulations is also related to the protection of people's political rights as part of citizens' constitutional rights. A healthy democracy requires regulations that are able to ensure equal and fair political participation. Therefore, election regulations and the authority of the Constitutional Court must be seen as a unified system that supports each other in maintaining the quality of democracy. When regulations are able to provide legal certainty while ensuring substantive justice, the democratic system can run more effectively and constitutionally (Saifulloh, 2022).

Thus, the effectiveness of the General Election Law and the Constitutional Court Law in supporting democracy is highly dependent on the consistency of the application of legal norms, the quality of constitutional supervision, and the ability of regulations to ensure the protection of citizens' constitutional rights. Both regulations have a strategic role in building a democratic system that is not only oriented to formal procedures, but also to the creation of constitutional justice and the protection of people's rights in a sustainable manner (Audha, 2021).

The Urgency of Strengthening Regulations and the Role of the Constitutional Court in a Democratic State of Law

Discussions on the effectiveness of regulations and strengthening the role of the Constitutional Court are very important in the development of a democratic legal state because the dynamics of modern democracy require a legal system that is able to ensure a balance between state power and the protection of citizens' constitutional rights. A democracy that only emphasizes on election procedures without being balanced by strong constitutional oversight has the potential to lead to abuse of power and legal

uncertainty. Therefore, the existence of regulations that regulate the democratic mechanism and the authority of the constitutional judiciary must be understood as an instrument to maintain constitutional stability while ensuring the protection of people's rights in state life (Patra, 2022).

The urgency of strengthening regulations is also related to the development of society which is increasingly critical of the implementation of state power. In the modern democratic system, society not only demands formal implementation of the law, but also wants substantive justice in every policy and regulation formed by the state. Regulations that are unable to provide protection for the political and constitutional rights of the people can cause public distrust of the democratic system. Therefore, the existence of the General Election Law and the Constitutional Court Law have a strategic position in maintaining the legitimacy of democracy and ensuring that the entire constitutional process runs in accordance with constitutional principles (Syahuri & Fahrozi, 2020).

In addition, the urgency of discussions on democratic regulations arises because the development of political systems often gives rise to differences in interests that have the potential to affect the quality of democracy. Legal provisions governing the electoral mechanism, political rights, and constitutional oversight must be able to create a balance between the need for government stability and the protection of citizens' rights. In this context, the Constitutional Court has an important role as an institution that ensures that every regulation remains within the constitutional corridor and does not contradict democratic principles. Strengthening the role of the Constitutional Court is important because this institution functions as a guardian of the constitution as well as a controller against possible deviations of legal norms in the democratic system (Sadzali, 2022).

Another urgency can be seen from the increasingly complex legal and democratic issues that require a progressive interpretation of the constitution. In the practice of state administration, the development of society often gives birth to new problems that have not been fully regulated clearly in regulations. This condition requires the Constitutional Court to be able to provide legal interpretations that are not only oriented towards formal legality, but also consider the principles of justice and the protection of human rights. Judicial review in this case is an important instrument to keep regulations relevant to the development of democracy and the needs of society (Satriawan & Lailam, 2019).

On the other hand, strengthening regulations is also important to prevent inconsistencies in the application of laws and state policy-making. When regulations do not have clarity of norms or are unable to accommodate democratic principles in a balanced manner, the potential for constitutional conflicts and violations of constitutional rights becomes even greater. Therefore, the discussion of the effectiveness of regulations is relevant to ensure that the law is not only a tool for legitimizing power, but also a means of protecting people's rights. In this context, the

Constitutional Court functions as a supervisory mechanism that can correct legal norms that are considered contrary to the constitution (Silaban, 2021).

The urgency of strengthening the role of the Constitutional Court is also related to the need to maintain the independence of the judiciary in the system of the state of law. The independence of the constitutional judiciary is an important factor in creating public trust in the law enforcement and democratic process. When the Constitutional Court is able to exercise its authority independently, supervision of legal products can be carried out objectively and oriented towards the protection of citizens' constitutional rights. On the other hand, the weak independence of the judiciary can reduce the effectiveness of constitutional supervision and have the potential to cause legal uncertainty in the democratic system (Audha, 2021).

In addition to maintaining independence, strengthening regulations and the role of the Constitutional Court is also important in supporting the development of laws that are responsive to democratic development. Good regulation must be able to adapt to social and political dynamics without ignoring the principle of the rule of law. In this case, the Constitutional Court not only plays a role as a law examining institution, but also as an institution that maintains the direction of legal development so that it remains in accordance with democratic values and constitutional justice (Diniyanto, 2018). This role shows that strengthening constitutional regulation and supervision is an important part of efforts to build a modern and adaptive legal system.

Furthermore, the urgency of discussing democratic regulations is also influenced by the need to improve the quality of protection of people's political rights. Constitutional democracy must provide a fair and equal space for participation for all citizens. Therefore, regulations related to the electoral system and constitutional supervision must be designed to ensure more inclusive access to public politics. When regulations are able to guarantee the protection of political rights and create legal certainty, democracy can develop in a healthier and more sustainable manner (Al-Fatih, 2019).

Thus, the discussion of the effectiveness of regulations and strengthening the role of the Constitutional Court has great urgency in realizing a democratic and constitutionally fair state of law. Strengthening regulations is needed to ensure that the law is able to respond to the dynamics of democracy and the needs of society, while strengthening the role of the Constitutional Court is needed to maintain the consistency of the application of the constitution and optimally protect the constitutional rights of citizens. These two aspects are an important part of creating a democratic system that is not only oriented towards formal legality, but also on the realization of substantive justice in state life (Saifulloh, 2022).

4. | CONCLUSION

The effectiveness of regulation in a democratic system has a close relationship with the ability of the law to ensure the protection of citizens' constitutional rights and

maintain a balance between state power and the principle of the rule of law. Law No. 7 of 2017 concerning General Elections and Law No. 24 of 2003 concerning the Constitutional Court and its latest amendments show that there is an important link in supporting constitutional democracy. Regulations on general elections function as the basis for the implementation of people's sovereignty through democratic mechanisms, while regulations on the Constitutional Court function as an instrument of constitutional supervision to ensure that every legal norm remains in accordance with the 1945 Constitution of the Republic of Indonesia. The effectiveness of the two regulations is not only determined by the existence of formal legal norms, but also by the consistency of the application of the law, the quality of constitutional supervision, and the ability of regulations to adapt to the development of modern democracy.

In addition, discussions on strengthening regulations and optimizing the role of the Constitutional Court are very important in realizing a democratic and constitutionally fair state of law. The increasingly dynamic development of democracy requires a legal system that is responsive, transparent, and able to provide equal protection for people's political rights. In this context, the Constitutional Court has a strategic position as a constitutional guardian that functions to maintain consistency in the application of the principles of democracy and the rule of law. Strengthening regulations is needed so that the law is not only an instrument of formal legality, but also a means to create substantive justice and the protection of citizens' constitutional rights. Therefore, harmonization between election regulations and constitutional supervision is an important part in supporting the development of a more effective, inclusive, and sustainable democratic system.

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The authors declare that there is no conflict of interest.

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The data that support the findings of this study are available from the corresponding author upon reasonable request.

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