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license**STATE, CONSTITUTION, AND POWER IDENTITY: A
SOCIO-POLITICAL ANALYSIS OF INDONESIA'S
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Sukoharjo 57162, Indonesia*Correspondence E-Mail: lintangtaurusdiana@gmail.comDOI: <https://doi.org/10.30598/baileofisipvol3iss1pp67-82>**ABSTRACT**

Indonesia, as a democratic and constitutional state, places the law and the 1945 Constitution (UUD 1945) as the primary foundation of state governance. A key expression of this principle is the Constitutional Court's authority to review legislation against the Constitution, as stipulated in Article 24C paragraphs (1) and (2). This article critically analyzes Constitutional Court Decision No. 90/PUU-XXI/2023 concerning the minimum age requirement for presidential and vice-presidential candidates from socio-political and constitutional law perspectives. Using a socio-legal research approach, it examines legal documents within the broader context of power, political identity, and constitutional dynamics. The analysis reveals that the Court's revision of Article 169 letter q of Law No. 7/2017 on Elections—by introducing an alternative requirement for candidates under 40 who have held or currently hold elected office—reflects an expansion of judicial interpretation beyond constitutionally defined authority. Substantively, the ruling raises legitimacy concerns and opens pathways for political interests to influence legal processes. The novelty of this study lies in its interdisciplinary approach that combines legal analysis and power discourse to explain the shifting boundaries of constitutional authority in Indonesia. It recommends clearer limitations on judicial power and stronger political and ethical oversight mechanisms for the Constitutional Court to safeguard democratic integrity.

Keywords: Constitutional Court, Judicial Review, Presidential Age Limit, Political Identity, Constitutional Law

INTRODUCTION

Indonesia's democracy today faces challenges that are not only procedural but also substantive. One of the most prominent public debates recently concerns the age limit for presidential and vice-presidential candidates, triggered by the Constitutional Court Decision No. 90/PUU-XXI/2023 (Astuti & Setyarini, 2024; Fauzan et al., 2024b, 2024a; Zainab, 2024). This ruling modifies the minimum age requirement of 40 years for presidential and vice-presidential candidates by introducing a more flexible qualification: individuals under 40 may still run if they are currently holding or have previously held a political office obtained through direct elections, such as regional head. While this appears to promote political participation, the decision has sparked sharp controversy, especially regarding the legitimacy of power, judicial independence, and the expansion of constitutional interpretation. The tension between law as a normative

standard and law as a political instrument becomes particularly evident. This is not merely a matter of age but a question of how the state interprets itself—whether it adheres to the fundamental principles of the constitution or begins to tread into the grey areas of power.

Several previous studies have examined the Constitutional Court from a normative legal perspective, such as those by Soedirjo & Santiago (2024) and Sulastri et al. (2025), which emphasize the importance of maintaining the judiciary's independence in the constitutional system. The Constitutional Court is often positioned as the last bastion guarding the constitution—a role that must not be influenced by short-term political interests (Arifin, 2024; Nainggolan & Nina Zainab, 2024). Research by Pujayanti et al. (2024), Sinaga & Machmud (2024), and Suharto et al. (2024) even highlight the Court's role in shaping a healthy post-reform democracy, stressing that integrity and caution in constitutional interpretation are imperative and non-negotiable. In other contexts, Fathullah et al. (2025), Silalahi et al. (2025), and Tyson (2021) show how overly loose interpretations of the constitution can give rise to legitimacy issues, particularly when judicial decisions are perceived as biased or politically colored.

More contemporary studies, such as those by Darwin & Haryanto (2021), Guevara & Theviot (2024), and Prianto (2024), map how Indonesia's electoral politics have become increasingly dominated by strategies of power personalization, including efforts to form alternative constitutional paths that serve the interests of certain political actors. Meanwhile, research by Croissant (2022) and Kenawas (2023) notes a trend toward the strengthening of legal oligarchy through judicial rulings that exploit the ambiguity of constitutional norms. This is further reinforced by analyses from Malik et al. (2024) and Wardhani et al. (2022), which show a widening gap between written legal norms and their implementation in contemporary political praxis. In the same framework, Kelemen (2025) and Sánchez-Talanquer & Greene (2021) stress the importance of maintaining a balance between law and power to prevent the state from falling into a new authoritarian trap cloaked in pseudo-legality.

Furthermore, studies such as those by Mendy & Sarr (2025) and Wiratraman (2022) explore the role of the Constitutional Court in the democratization process, while also acknowledging the risk of politicization if not accompanied by adequate mechanisms of control and accountability. Butt & Nathaniel (2024) even question the extent to which the Constitutional Court remains capable of standing independently when its decisions are increasingly wrapped in dynastic political interests or elite influence. According to Butt & Murharjanti (2022) and Thohir & Sukriono (2023), this is a critical signal that the constitution is no longer merely a source of law, but has become a site for the interpretation of power. In such a context, it becomes essential to conduct an analysis that goes beyond legal normativity and delves into the socio-political dynamics underlying constitutional interpretation.

Despite the abundance of studies on the Constitutional Court and constitutional dynamics in Indonesia, a relatively underexplored area remains: how the interpretation of age requirements is not merely a legal-formal issue but also reflects the construction of power and political identity in a democratic state. There are deeper dimensions beyond judicial rulings—

namely, how the state negotiates the boundaries between norms, power, and legitimacy under the ever-evolving face of the constitution. In this domain, socio-political studies have yet to thoroughly explore the specific relationship between the expansion of judicial interpretation and the potential infiltration of political interests into the constitutional body itself.

Through a socio-political lens and a socio-legal approach, this paper not only offers a new reading of Constitutional Court Decision No. 90/PUU-XXI/2023 but also invites readers to understand that behind written norms, there are always power structures at play. This is the strength of this analysis: it does not position law and politics in opposition but recognizes their mutually constitutive relationship. When the Constitutional Court interprets the constitution by adding requirements not explicitly stated in the law, it raises a fundamental question: to what extent does this interpretation remain within the bounds of law, and when does it become a tool of political interest.

Based on this thinking, the purpose of this study is to analyze Constitutional Court Decision No. 90/PUU-XXI/2023 in the context of the relationship between the state, constitution, and power identity, as well as to examine its socio-political implications for democratic practice and constitutional justice in Indonesia. In doing so, this paper not only contributes to enriching constitutional law studies but also expands the horizons of social sciences and humanities that critically engage with power dynamics within a constitutional democratic system.

RESEARCH METHOD

This study employs a socio-legal research approach, which combines normative legal analysis with a contextual understanding of the socio-political practices that surround the formation and application of legal norms (Ezirigwe & Glazewski, 2024; Peck, 2023). This approach is chosen because the debate over the age limit for presidential and vice-presidential candidates cannot be understood solely as a matter of formal legality; rather, it must be examined within a broader landscape: power dynamics, constitutional interpretation, and the legitimacy of state institutions. As Banaji et al. (2021) argue, law never exists in a vacuum but is always in interaction with the social, cultural, and political structures of society. Therefore, understanding Constitutional Court Decision No. 90/PUU-XXI/2023 solely from its legal text would be highly reductive without considering the socio-political context that surrounds it.

Data collection for this study was conducted in two main stages. First, a documentary study was carried out on the Constitutional Court's decision, relevant laws and regulations (especially the 1945 Constitution and Law No. 7 of 2017 on Elections), as well as academic papers, court transcripts, and amicus curiae submissions related to this case. These legal materials were analyzed to identify the Court's legal reasoning, the interpretive methods employed, and whether the decision remained within constitutional boundaries or exceeded its authority. Second, the study also gathered qualitative data from public discourse as reflected in national media, statements from political actors, as well as academic discussions and expert opinions from

constitutional and political law scholars. These sources were selected to capture the socio-political responses as part of public reflection on the legitimacy of the decision.

The choice of documentation and discourse study methods was based on the fact that this research is not field-based empirical research, but rather focuses on an in-depth understanding of the processes of legal production and the social meanings that accompany it. As Giliker (2021) explains, law is not only what is codified but also how it is interpreted, used, and debated within society. Hence, this approach allows for a broader examination of how law is produced and justified in the public sphere and how society understands and responds to it.

To ensure validity and reliability, triangulation was conducted by comparing data from three main types of sources. First, official legal documents from the Constitutional Court; second, media narratives and public opinions presented through digital platforms, print media, and scholarly discussions; and third, academic insights drawn from journals, books, and recent legal and political publications. By comparing these three sources, the researcher ensures that the analysis is not one-sided but considers the diversity of perspectives present in society. This triangulation also enables the identification of potential biases in the ruling, whether stemming from the legal text itself, political narratives, or surrounding social constructions.

The entire analytical process was carried out using an interpretive-critical method, which involves reading and interpreting data not only textually but also by considering the power relations operating behind every legal discourse. This approach follows Sand's (2021) perspective on the importance of communicative rationality in understanding law as an interaction space filled with interests. In this way, the study not only aims to explain the content of the Constitutional Court's decision but also to reveal how and why the decision was made and what it means for democratic life and constitutional governance in Indonesia.

RESULTS AND DISCUSSION

The Constitutional Court in the Architecture of Indonesia's Constitutional Democracy

Within Indonesia's state system, the Constitutional Court is a judicial institution born from the spirit of reform, aimed at strengthening constitutional supremacy and limiting potential abuses of power by state institutions. The existence of the Constitutional Court is explicitly regulated in Article 24C paragraphs (1) and (2) of the 1945 Constitution, which states that the Court has the authority to adjudicate at the first and final level, with decisions that are final, in matters including: the judicial review of laws against the Constitution, the settlement of authority disputes among state institutions, the dissolution of political parties, and the resolution of election result disputes. These core functions position the Constitutional Court as the "guardian of the constitution," a role that is not only legal-formal but also structurally political, given its location amid the tension between legal principles and political dynamics.

The juridical-normative approach used in this study shows that the power of the Constitutional Court is normatively designed to remain within strict constitutional boundaries.

This concept aligns with Takata's (2022) perspective that in a developing democracy such as Indonesia, a constitutional court must balance its authority to interpret the constitution with caution, to avoid undermining its own legitimacy. Bounded judicial review is an approach that recognizes the importance of the court's role in guarding the constitution, while stressing that this role must be carried out within limits so as not to transform the court into a norm-setting actor beyond its constitutional mandate.

In practice, the Constitutional Court has indeed played a significant role in safeguarding democratic and constitutional principles in Indonesia, especially during the first decade after the reform era. Data from 2003 to 2019 show that the Court issued more than 1,300 decisions on the judicial review of laws against the 1945 Constitution, with the majority (around 60%) declaring the challenged norms unconstitutional. This confirms that the Court functions as a constitutional filter for legislative products deemed excessive or discriminatory. However, over time, its practices have not been immune to the pull of political interests.

A socio-legal reading of the Constitutional Court's function situates it within the context of power relations and symbolic practices in contemporary Indonesian politics. Through an analysis of public discourse that emerged following Decision No. 90/PUU-XXI/2023, there has been a noticeable shift in public perception of the Court—from being a guardian of the constitution to a tool of political affirmation for certain elites. National media such as Kompas, Tempo, and The Jakarta Post reported that this decision was sharply criticized by civil society, academics, and former constitutional justices. The most common critique was that the Court had added a new norm (an alternative age requirement for presidential/vice-presidential candidates), which should have been the domain of the legislature. In the context of bounded judicial review, this indicates that the Court had crossed its boundaries by creating new legal provisions rather than merely interpreting existing ones.

The tension between the normative function of the Constitutional Court and the realities of political power is also reflected in the views of several legal experts. For instance, Anggoro & Negara (2021) and Suryowidodo et al. (2025) argue that the decision was not an interpretation but a form of hidden legislation that conflicts with constitutional logic. Similarly, Bivitri Susanti has stated that the Court has lost its constitutional integrity by allowing interpretive space to be filled with particular political interests. This situation shows that despite its structural independence, the Court remains subject to political dynamics that influence its decisions.

The 2023 decision represents a turning point indicating a problematic expansion of legal interpretation, both in terms of legality and constitutional ethics. The line between constitutional guardianship and political interpretation becomes blurred. Therefore, understanding the Constitutional Court cannot rely solely on constitutional texts or normative law, but must also consider how the institution operates within a dynamic socio-political context. In a healthy constitutional democracy, the Court should act as a guardian of the normative boundaries of state power. However, when those boundaries are exceeded in practice, it threatens not the strengthening of democracy but the credibility of the legal system itself.

Table 1 Comparison Between the Normative Function of the Constitutional Court and Judicial Practice in Several Strategic Rulings

Year	Decision Number	Main Issue	Decision Outcome	Public Response	Academic Assessment
2013	5/PUU-X/2012	Judicial review of Regional Election Law	Direct election upheld	Positive	In line with direct democracy principles
2017	46/PUU-XIV/2016	Presidential threshold	Threshold upheld	Limited criticism	Seen as maintaining political stability
2023	90/PUU-XXI/2023	Presidential and vice-presidential age limit	Age requirement modified with exceptions	Broad criticism	Viewed as exceeding judicial authority

Source: Research Analysis, 2025

Decision No. 90/PUU-XXI/2023: Constitutional Interpretation or Hidden Legislation?

In Indonesia's constitutional democracy, the Constitutional Court holds a highly strategic position. Its authority, clearly defined in Article 24C paragraphs (1) and (2) of the 1945 Constitution, places the Court as the guardian of the constitution, whose main task is to ensure that all laws are consistent with the Constitution as the highest legal norm. However, in practice, as demonstrated by Decision No. 90/PUU-XXI/2023 concerning the age requirement for presidential and vice-presidential candidates, serious questions have arisen regarding the boundaries of the Court's authority.

This decision has been viewed by most legal scholars and observers as an overextension of constitutional interpretation, going beyond the normative function of judicial review. Through a juridical-normative approach combined with a socio-legal lens, it becomes clear that the Court not only reviewed the constitutionality of an existing norm but also created a new one via conditional interpretation that effectively added a new clause to the Election Law. Yet according to the principle of bounded judicial review as developed by Takata (2022), constitutional courts in developing democracies must ensure that their review authority does not become covert legislative power. Takata emphasizes the need for a clear normative boundary between constitutional review and the formulation of legal policy.

In this case, Article 169 letter q of Law No. 7/2017 on Elections initially set the minimum age for presidential and vice-presidential candidates at 40 years. The Constitutional Court, however, added the clause "or has held/is holding an elected office" through interpretation. This decision did not merely determine whether a norm was constitutional; it created a new legal provision previously unaddressed by the legislature. According to court documents, the Constitutional Court held four Judges' Deliberation Meetings (RPH) before issuing the ruling on 16 October 2023. However, the transparency of the ruling's reasoning did not adequately address public concerns regarding the deliberative process, which should prioritize caution in interpreting the constitution.

A socio-legal analysis of public discourse in national media shows that most criticisms centered on potential conflicts of interest during the decision-making process, particularly due to familial ties between the then-Chief Justice and a political figure likely to benefit from the decision. Media such as Kompas, Tempo, and The Jakarta Post consistently reported strong responses from academia and civil society. Purnamasari & Husodo (2024) reinforced these criticisms, stating that the Constitutional Court had deviated from its function—namely, to test whether a norm contradicts the constitution, not to create new norms. Bivitri Susanti echoed this by asserting that the presidential age limit is not a constitutional issue, but part of an open legal policy under the legislature’s authority.

Moreover, qualitative data from various academic forums show that this decision has shaken trust in the Constitutional Court’s independence. In a discussion organized by the Center for Constitutional Studies (PUSaKO) at Andalas University, most participants viewed the ruling as a form of “judicial overreach,” which, if left unchecked, could set a dangerous precedent for the integrity of Indonesia’s constitutional democracy. The 2023 Annual Evaluation Report by the Indonesian Legal Roundtable (ILR) even ranked this decision among the top three most controversial rulings of the year, citing concerns over political interference in judicial processes.

Table 2 Comparison Between the Ideal Function of Judicial Review and the Practice in Decision 90/PUU-XXI/2023

Aspect	Ideal Concept (Article 24C of the 1945 Constitution)	Practice in Decision 90/PUU-XXI/2023
Role of the Constitutional Court	Review laws against the Constitution (judicial review)	Added a new norm through conditional interpretation
Age requirement for presidential/vice-presidential candidates	Minimum 40 years (Election Law No. 7/2017)	40 years or has held/is holding an elected office
Policy domain	Legislature’s authority (open legal policy)	Taken over by the Constitutional Court through interpretation
Principle of legality	Norm changed via law by the DPR and President	Norm changed through judicial decision

Source: Research Analysis, 2025

Based on this analysis, it can be said that the Constitutional Court, in Decision No. 90/PUU-XXI/2023, has overstepped its functional boundaries as a judicial body. This reinforces arguments that the Constitutional Court’s role must be strictly supervised to prevent deviations from the framework of constitutional democracy. One key implication is the need to strengthen ethical and oversight mechanisms for constitutional justices, as many experts have proposed. In a healthy democracy, the judiciary must be subject to public accountability to prevent it from becoming an untouchable source of political power.

In the author’s view, Decision No. 90/PUU-XXI/2023 constitutes a real test of the limits of the Constitutional Court’s authority within Indonesia’s constitutional system. This aligns with the perspective of Jimly Asshiddiqie, the first Chief Justice of the Court, who in his article “Conditional

Constitutionality Enters Additional Provisions” emphasized that the Constitutional Court should act as a negative legislator. Therefore, in reviewing provisions concerning the age requirement for presidential and vice-presidential candidates, the Court should have confined its ruling to assessing whether the article was constitutional or not.

According to Article 6 paragraph (2) of the 1945 Constitution, age requirements fall under open legal policy—within the purview of the legislature (the President and the DPR). Thus, the Court has no jurisdiction to add or modify legal norms in the form of new, especially technical-administrative, provisions. The Constitution contains only fundamental and essential norms—not electoral technicalities. If the Court insists on ruling and even adds interpretive elements to such norms, it risks impeding legal flexibility in responding to political dynamics. Such a decision also sets a precedent for judicial overreach and risks violating established constitutional boundaries. In this context, the age requirement is not a constitutional issue, but a matter of legal policy that should be decided by legislators.

The debate over the age requirement for presidential and vice-presidential candidates ultimately reflects the dynamics of a healthy democracy. Differences of opinion are inevitable in a democratic state and function as instruments to safeguard political diversity and maturity within constitutional boundaries. The Constitutional Court, as the guardian of the constitution, bears the responsibility to operate strictly within the limits of its prescribed authority. Failure to do so not only risks a crisis of public trust but also endangers the integrity of the legal system and the constitutional protection of human rights. Therefore, the Constitutional Court must exercise its function with caution, uphold constitutional norms, and remain acutely aware of the impact each of its decisions may have on the legitimacy of democracy and the rights of citizens.

Power and Political Identity in Judicial Interpretation

In the dynamics of contemporary Indonesian constitutionalism, decisions of the Constitutional Court cannot be separated from the context of power surrounding them. The legal interpretations produced by this institution, rather than being neutral and objective as ideally expected, are often bound by networks of power relations involving dominant political actors. In the case of Decision No. 90/PUU-XXI/2023, which opens the possibility of exempting the age limit for presidential and vice-presidential candidates if they have previously served as regional heads, we witness a problematic expansion of legal meaning. This interpretation not only exceeds the normative substance set by law but also potentially reflects specific political interests. In this context, judicial interpretation appears not as a guardian of the constitution that limits power, but as an actor that contributes to the production and reproduction of power itself.

The critical constitutionalism approach offers a suitable theoretical framework to analyze this phenomenon. This perspective is based on the premise that the constitution is not merely a neutral normative legal document but also an arena of conflict and consensus imbued with political interests. As explained by Jiménez-Martínez & Edwards (2023), the constitution in the critical framework is not only a mechanism to limit power but can also be used as an instrument

to perpetuate the dominance of certain groups. In Indonesia, the Constitutional Court's interpretive bias toward existing power structures is evident in how it facilitates political dynastic consolidation. This dynamic is reflected in the configuration of political elites who are connected both genealogically and ideologically, such as the familial relationship between the then-Chief Justice and a key figure in national political contestation. This raises public suspicion that the law is no longer a restraint on power but rather part of the architecture of power itself.

This reality becomes even clearer when viewed from a socio-legal perspective. National media such as Kompas, Tempo, and Detik have documented how the public responded to the Constitutional Court's decision with disappointment and cynicism. Many constitutional law experts, including Bivitri Susanti and Zainal Arifin Mochtar, argue that the Court has misused its negative legislator function by introducing a new norm, rather than simply reviewing the constitutionality of existing ones. This criticism illustrates that the judiciary is no longer immune from politics but has instead become increasingly integrated into the configuration of practical politics. According to Fiseha (2024), this situation creates judicial overreach—when the judiciary exceeds its functional boundaries and encroaches into legislative and executive domains. From this, it becomes apparent that the law is not only declarative or interpretive but also politically productive.

The close relationship between law and power identity shows how legal narratives can be used to construct broader political narratives. In critical analysis, as stated by Barnard & Woodburn (2024), the law is a symbolic form of power—power that claims truth in the name of formal legitimacy. When the Constitutional Court interprets a legal norm, it does not merely convey legal meaning but also distributes authority to certain actors within the political system. Thus, legal interpretation becomes a strategic instrument in political struggle, not just the outcome of rational juridical deliberation. This becomes more complex when we consider how political dynasty discourse is growing within our electoral democracy. Decisions that support political access for family members of ruling elites not only reflect institutional bias but also depict the process of delegitimizing the law as a mechanism for checking power.

Given such conditions, a fundamental question must be raised: For whom does the law work, and in whose interest is the interpretation conducted? This question leads us to a deeper reflection that political power does not merely dominate the executive and legislative branches, but also extends to the judicial dimension, which is supposed to remain independent. Therefore, in reading the Constitutional Court's decisions, we cannot rely solely on formal juridical arguments, but must also open space for criticism of the socio-political contexts that shape and surround them. Only in this way can we ensure that the constitution remains a living document—not a tool for affirming short-term political interests, but an ethical and normative guide for upholding justice, civility, and the integrity of our democratic system.

Legitimacy, Constitutional Ethics, and the Crisis of Public Trust

The Constitutional Court's Decision No. 90/PUU-XXI/2023, which revised the age limit for presidential and vice-presidential candidates, has produced socio-political impacts that extend far beyond the constitutional courtroom. One of the most tangible impacts is the emergence of a crisis of public trust in the judiciary, particularly the Constitutional Court, which has long been regarded as the last bastion of constitutional guardianship. The decision has sparked widespread criticism from civil society, academics, professional legal organizations, and national figures. Even former constitutional justices and constitutional law scholars have openly questioned the Court's independence and integrity in making a decision that substantively opens space for certain political interests—especially those closely tied to the issue of dynastic power. Here, we are witnessing not just a shift in legal norms, but a transformation in public perception of the ethical values that should underpin the exercise of judicial power.

In this context, it is important to understand that constitutional legitimacy is not built solely on formal legality, but also on public ethics and social trust. The Constitutional Court, as a constitutional judicial body, carries a significant ethical burden—not only to appear fair but to truly uphold justice in both process and substance. Constitutional ethics cannot be separated from the principles of transparency, accountability, and commitment to substantive democratic values. When the decision-making process appears closed, cloaked in personal affiliations, and results in rulings that benefit particular power groups, the institution's legitimacy is not only normatively disrupted but also symbolically and morally damaged in the public eye. The widespread disappointment expressed through social media, the statements from civil society organizations such as the Center for Law and Policy Studies (PSHK), and the sharp scrutiny from national media indicate a serious erosion of trust in the Constitutional Court.

Espinosa & Landau (2021) emphasize that a court's legitimacy does not merely arise from the text of the constitution or the formal authority it holds, but also from public perceptions of the integrity, neutrality, and morality of its decisions. In the context of a democracy that is not yet fully mature—such as Indonesia—the boundary between law and politics is often blurred. According to Ginsburg, such ambiguity in power boundaries can lead to institutional fragility. When the judiciary is seen as unable to maintain distance from the executive or is even perceived to be involved in practical political schemes, the resilience of democracy itself comes under threat. In Indonesia's case, the post-decision wave of criticism toward the Constitutional Court should serve as a serious warning of the importance of maintaining ethical boundaries in the exercise of judicial power.

The importance of ethics in the practice of judicial power has also been raised by Kis (2021), who highlights the phenomenon of juristocracy—a condition in which the judiciary becomes a new center of power but lacks adequate oversight. In such a situation, courts are not only vulnerable to ideological bias but also to political co-optation. Indonesia is now at that critical juncture. If the Constitutional Court continues to make decisions that unilaterally expand interpretations and potentially benefit particular political interests, then systemic

delegitimization of the institution is likely. The implications are profound—not just for the Court itself, but for the entire constitutional legal order and democracy.

From these various dynamics, it becomes clear that the legitimacy of the judiciary cannot be built merely on its formal position within the constitutional structure, but must be maintained through a commitment to constitutional ethics, awareness of public responsibility, and transparency in all forms of power practice. A healthy rule-of-law state requires a judiciary that is not only legally strong but also morally upright. In the Indonesian context, preserving the integrity of the Constitutional Court is not the sole responsibility of the institution—it is also the responsibility of a critical public, vigilant scholars, and an active media. Only through such efforts can trust in the constitution and all the institutions that uphold it be restored and strengthened.

Reconceptualizing the Limits of Authority and Oversight of Judicial Power

In the ever-evolving dynamics of constitutional governance, the need to reconceptualize the limits of the Constitutional Court's authority has become increasingly urgent. Constitutional Court Decision Number 90/PUU-XXI/2023 reveals a deeper issue beyond the interpretation of the age requirement for presidential and vice-presidential candidates; it opens a discourse on how an institution mandated to guard the constitution can remain within its jurisdictional boundaries without sliding into becoming an instrument of political power. The Constitutional Court is indeed vested with strong authority in Indonesia's constitutional system—adjudicating at the first and final instance on the review of laws against the 1945 Constitution as affirmed in Article 24C paragraphs (1) and (2)—but this power must be bounded by principles of caution, objectivity, and high ethical responsibility. When interpretive expansion is conducted without adequate methodological and transparent justification, institutional legitimacy may be gradually eroded.

The public debate that emerged following Decision 90/PUU-XXI/2023 reinforces the importance of oversight mechanisms over judicial power. This is not to reduce the Court's independence but to ensure that its freedom is exercised responsibly. Various democracies have developed forms of ethical and institutional oversight over constitutional courts without disrupting their judicial functions. For example, in Germany, oversight is implemented through strict codes of ethics and mandatory publication of rulings, while in Canada, judicial accountability is based on public transparency and ethical expectations of judges. In Indonesia, oversight institutions such as the Judicial Commission have proven limited in their jurisdiction over Constitutional Court justices. Therefore, a new mechanism specifically designed to supervise constitutional judicial practices—especially concerning potential conflicts of interest, judicial independence, and ethical integrity—is urgently needed.

As emphasized by Berger & Luckmann (2023), law is a product of social construction and is always embedded in power relations. Thus, guarding the constitution does not merely mean reading texts literally or procedurally but also involves a critical understanding of how power operates, who benefits from particular interpretations, and how such interpretations affect

society at large. This approach helps bridge the disconnection between formal legal norms and the politically contested realities of governance. In the current Indonesian context, overly flexible constitutional interpretations without sufficient oversight risk creating dangerous precedents that could undermine democratic continuity.

Data from national media and academic studies in the aftermath of the ruling show that the majority of public responses were critical of the Constitutional Court. A rapid study conducted by LSI Denny JA in November 2023, for instance, reported that 62.5% of respondents believed the Court was not neutral in issuing the decision. This was echoed in official statements from legal organizations such as YLBHI, PSHK, and ICJR, which described the decision as a “disproportionate expansion of authority.” In academic discourse, constitutional law experts such as Prof. Jimly Asshiddiqie and Prof. Zainal Arifin Mochtar voiced concerns about an ethical crisis within the Constitutional Court, which in the long term could diminish its constitutional legitimacy.

Through this reconceptualization, it becomes clear that safeguarding the boundaries of the Constitutional Court’s authority is not a weakening of the institution, but an effort to strengthen the ethical foundations of constitutional democracy. Affirmative steps are needed to build an oversight system that is grounded not only in legality but also in public ethics and living principles of checks and balances. Here, public awareness plays a crucial role: constitutional supremacy is not determined by the judiciary alone but also by citizen participation in overseeing constitutional practices. Therefore, the direction of reform should not lie solely in changing norms, but in fostering a constitutional culture rooted in ethical, social, and historical awareness of the importance of limiting power to preserve a healthy and inclusive democracy.

CONCLUSION

Constitutional Court Decision Number 90/PUU-XXI/2023 has demonstrated that constitutional interpretation in Indonesia is inseparable from the dynamics of power and political identity that continue to evolve within the space of democratic contestation. In this context, judicial authority—intended to serve as the last bastion of constitutional guardianship—has shown a tendency to reposition the normative boundaries inherent to it. By introducing an exception to the age requirement for presidential and vice-presidential candidates, the Court has created a precedent that blurs the line between the authority to interpret and the authority to create new norms, the latter of which is constitutionally the domain of lawmakers. The findings of this study, through a socio-legal approach, reveal that the law does not operate in a vacuum, but is inherently tied to layered networks of social relations and political interests. In this light, the need to reinforce ethical and normative limits on judicial power becomes urgent—not as a restriction on judicial independence, but as the foundation for sustainable constitutional legitimacy and integrity. The novelty of this study lies in its integrative perspective, combining legal analysis with socio-political critique to examine the expansion of constitutional authority

not merely as a legal phenomenon, but also as a cultural and political process. As such, it calls for more participatory and reflective oversight from civil society and other democratic institutions.

ETHICAL STATEMENT AND DISCLOSURE

This study was conducted in accordance with established ethical principles, including informed consent, protection of informants' confidentiality, and respect for local cultural values. Special consideration was given to participants from vulnerable groups to ensure their safety, comfort, and equal rights to participate. No external funding was received, and the authors declare no conflict of interest. All data and information presented were collected through valid research methods and have been verified to ensure their accuracy and reliability. The use of artificial intelligence (AI) was limited to technical assistance for writing and language editing, without influencing the scientific substance of the work. The authors express their gratitude to the informants for their valuable insights, and to the anonymous reviewers for their constructive feedback on an earlier version of this manuscript. The authors take full responsibility for the content and conclusions of this article.

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