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VACANCY OF NORMS FOR THE TIME LIMIT FOR SETTLEMENT OF MATERIAL TEST CASES AT THE CONSTITUTIONAL COURT IN THE PERSPECTIVE OF SIYASAH DUSTURIYAH

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Abstract

This research highlights the problem of the absence of norms in the procedural law of the Constitutional Court, especially related to the absence of a deadline for the settlement of legal review cases. Unlike disputes over election results that have a limited deadline, material test cases often experience a protracted judicial process (undue delay). This research aims to analyze the legal implications of the void of these norms and formulate the concept of ideal case resolution through the lens of Siyasah Dusturiyah. The method used is juridical-normative with a legislative and conceptual approach. The results of the study show that the absence of a time limit in Law Number 7 of 2020 creates legal uncertainty that is contrary to the principle of speedy justice (contante justitie). In the perspective of Siyasah Dusturiyah, this condition violates the principles of Al-'Adl (justice) and 'Adam al-Ta'khir (prohibition of deferring rights) in the judicial power (Wilayatul Qadha). Therefore, it is necessary to reconstruct regulations that set the maximum duration of case settlement for the benefit of justice seekers.

Keywords: Norm Vacancies, Constitutional Court, Judicial Review, Siyasah Dusturiyah, Legal Certainty.

A. Introduction

Indonesia proclaims itself as a state of law (*rechtsstaat*) as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The logical consequence of this principle is *the supremacy of the constitution*, where the constitution is placed as the supreme law that must be obeyed by all state administrators. In the

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design of the modern post-reform constitution, the Constitutional Court (MK) was formed as *the guardian of the constitution* which plays a central role in the *checks and balances mechanism*. Jimly Asshiddiqie (2006) explained that the existence of the Constitutional Court is intended to ensure that the constitutional rights of citizens are not violated by laws that are the political product of the legislation of the parliamentary majority.

As a judicial institution, the Constitutional Court is bound by the principles of universal justice as stipulated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power, namely that justice is carried out simply, quickly, and at a low cost. The principle of "speedy *trial*" is not just administrative jargon, but an absolute prerequisite for the establishment of legal certainty (*rechtssicherheit*). However, if an in-depth normative review is carried out on Law Number 24 of 2003 as last amended by Law Number 7 of 2020 concerning the Constitutional Court (UU MK), a vacuum *of norms* is found that is quite fundamental. This law does not regulate restrictively the deadline for the settlement of Law Testing (PUU) cases.

This inequality is clearly seen when comparing the procedural law regime between politically charged cases and law testing cases. In disputes over election results, the law provides a very strict time limit and is imperative (coercive). This is explicitly stated in Article 78 of Law Number 24 of 2003 which reads:

> "*Putusan Mahkamah Konstitusi mengenai permohonan atas perselisihan hasil pemilihan umum Presiden dan Wakil Presiden wajib diputus dalam waktu paling lambat 14 (empat belas) hari kerja sejak permohonan dicatat dalam Buku Registrasi Perkara Konstitusi.*"

Similarly, for legislative disputes, Article 74 paragraph (3) of Law Number 24 of 2003 emphasizes that:

> "*Putusan Mahkamah Konstitusi mengenai permohonan atas perselisihan hasil pemilihan umum anggota Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, dan Dewan Perwakilan Rakyat Daerah wajib diputus dalam waktu paling lambat 30 (tiga puluh) hari kerja sejak permohonan dicatat dalam Buku Registrasi Perkara Konstitusi.*"

The provisions that include the phrase "mandatory" and the exact number of days show that the state has the capacity to design a speedy judiciary if there is political *will*.

Maruarar Siahaan (2012), a former Constitutional Judge, in his procedural law study reminded that procedural law should function as a rail that keeps the enforcement of material laws running with clear and measurable procedures. The absence of this deadline procedure often causes *undue delays* in the trial process. In fact, in many cases,

the object of the law test is closely related to the fate of the crowd and the certainty of the business climate that requires an immediate ruling.

The destructive impact of this lack of time limits is clearly recorded in the public memory through the testing process of Law Number 11 of 2020 concerning Job Creation. This case is an empirical example of how procedural uncertainty can trigger national uproar. The process of material and formal examination of the law takes a very long time at the Constitutional Court, which reaches more than 1 (one) year. Referring to the Constitutional Court Decision Number 91/PUU-XVIII/2020, the formal examination application was recorded in 2020 but was only decided on November 25, 2021. The duration of this protracted settlement is in stark contrast to the settlement of election disputes where there are only days. During the period of "hanging", there was extraordinary legal uncertainty. Investors are holding back their capital because they are doubtful about the validity of the Job Creation Law, while workers and civil society continue to hold a wave of demonstrations that disrupt socio-political stability. If the Court has a firm deadline, of course the escalation of the conflict can be mitigated earlier. This confirms the view of Ni'matul Huda (2011) that the dynamics of the state administration that are not managed with procedural certainty will give birth to political instability that is detrimental to the people.

A similar phenomenon also occurred in the testing of the revision of the Law on the Corruption Eradication Commission (Law Number 19 of 2019). The length of the trial process seems to allow the systematic weakening of the corruption eradication agenda to occur in front of our eyes without any clarity on the constitutionality status of the revision. This reality confirms Mahfud MD's (2010) analysis of the political configuration of law in Indonesia, where legal products are often more inclined to serve the political interests of the elite than the interests of law enforcement itself. When the Constitutional Court's decision is late, then justice has actually been injured, as the classic legal adage justice *delayed is justice denied has been denied*.

This problem is ultimately not just a technical problem of judicial administration, but a philosophical problem about the nature of justice. On the one hand, the Constitutional Court is indeed required to be careful and prudent in exploring constitutional values in order to produce quality and futuristic decisions. But on the other hand, the need for justice seekers (*justiciabelen*) for quick legal certainty is also a human right that should not be ignored. This tension (*antinomy*) between the value of substantial justice and procedural legal certainty must be found through regulatory engineering.

The absence of a time limit rule also has the potential to erode public trust in the authority of the Constitutional Court. The public can interpret the Court's inaction as a form of powerlessness or even political compromise with lawmakers. Therefore, a legal

breakthrough is needed to fill the void of these norms in order to maintain the dignity of the constitutional judiciary.

The analysis of this norm vacuum becomes crucial when viewed within the framework of *Siyasah Dusturiyah* (Politics of Islamic Law and Jurisprudence). In the treasures of *Siyasah Dusturiyah*, the authority of legislation and judicial regulation should not be exercised haphazardly, but should be bound by the principle of the benefit of the ummah (*tasharruf al-imam 'ala al-ra'iyyah manuthun bi al-mashlahah*). The absence of a clear deadline has the potential to violate the principle of legal certainty which is the spirit of the constitution of the state of law (*nomocracy*) as well as injuring the principles of Islamic justice. Therefore, *Siyasah Dusturiyah's perspective* is present as the main analytical knife to test whether the current regulatory policy of the Constitutional Court is in line with the principle of protecting the rights of justice seekers or even allows structural tyranny to occur due to protracted procedures.

Based on the academic anxiety above, this study aims to analyze the urgency of setting the deadline for resolving law testing cases. Furthermore, this study offers the idea of legal reconstruction by adopting the model of time limitation (duration) applied in other countries and formulating a monitoring mechanism so that the rules can run effectively. This is important to close the gap in legal uncertainty and realize a *responsive, accountable, and fair* judicial power (Wilayatul Qadha).

B. Method

The type of research used in writing this journal is *normative legal research*. According to Soerjono Soekanto (2015), normative legal research is legal research that is carried out by examining mere literature or secondary data. This research is focused on the assessment of the vacuum *of norms* in the Constitutional Court Law regarding the deadline for resolving law testing cases.

To comprehensively dissect these problems, this study uses three approaches at once (*statute approach, comparative approach, and conceptual approach*). First, the statute *approach* is used to examine various regulations related to the procedural law of the Constitutional Court, especially Law Number 7 of 2020. Second, the *comparative approach* is used to compare the procedural law system of the Indonesian Constitutional Court with the *Constitutional Court of Korea* in order to find the ideal time management model. Third, the *conceptual approach* is used to understand legal concepts such as legal certainty, justice, and utility, as explained by Peter Mahmud Marzuki (2014) in his legal research theory.

The data source used is secondary data consisting of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution, the Constitutional Court Law, and related judges' decisions. Secondary legal materials are in the form of legal textbooks, scientific journals, and the opinions of scholars relevant to

the topic of discussion. Meanwhile, tertiary legal materials include legal dictionaries and encyclopedias.

The data collection technique is carried out through library *research* by inventorying, classifying, and studying relevant legal materials. Furthermore, all legal materials are analyzed qualitatively using the deductive syllogism method, which is to draw conclusions from major premises (theories/rules) and minor premises (legal facts) to produce prescriptions or recommendations for solutions to the norm voids that occur.

C. Findings and Discussion

1. The Essence of Siyasah Dusturiyah: The Political Paradigm of Islamic Law and Jurisprudence

Before going further on the analysis of the emptiness of norms, it is important to sit down the theoretical framework of Siyasah Dusturiyah as the main analytical knife in this study. In terminology, Siyasah Dusturiyah is an integral part of Fiqh Siyasah which specifically discusses the relationship between leaders (ulil amri) and their people, as well as the regulation of citizens' rights within the limits of the constitution. Abdul Wahhab Khallaf defines Siyasah Dusturiyah as a branch of knowledge that regulates the laws and regulations demanded by matters of state life, in order to be in harmony with the principles of sharia in order to realize the public good (Khallaf, 2005: 15).

In the context of modern governance, the focus of Siyasah Dusturiyah studies is not only limited to executive leadership, but also includes the formation of state institutions (sulthah) and the division of power. This includes the legislative institution (ahl al-halli wa al-'aqdi) as the lawmaker and the judicial institution (sulthah qadha'iyah) as the enforcer of justice. The main principle in Siyasah Dusturiyah is the limitation of power to prevent arbitrariness (istibdad), where every regulatory policy (tasyri') must have legal certainty and be oriented towards the protection of the people's rights (Pulungan, 2002: 45).

The relevance of this perspective in highlighting the performance of the Constitutional Court lies in the state's responsibility to ensure substantive, not merely procedural, justice. The absence of time limit rules in the settlement of cases is a form of regulatory negligence that is contrary to the spirit of Siyasah Dusturiyah. As the rules of fiqh siyasah affirm: "Tasharruf al-imam 'ala al-ra'iyyah manuthun bi al-mashlahah" (A leader's policy towards his people must be based on benefits). Therefore, Siyasah Dusturiyah is here to test whether the current Constitutional Court regulations have met the standards of Islamic justice or instead allow uncertainty to occur that is detrimental to justice seekers (Djazuli, 2003: 28).

2. Disparity in Time Limit Setting in the Procedural Law of the Constitutional Court: Between Political Certainty and Legal Uncertainty

The Constitutional Court of the Republic of Indonesia as one of the actors of independent judicial power, is strictly bound by the principles of the rule of law (*rechtsstaat*) and the principles of universal justice. In exercising its constitutional authority, the Court does not work in a vacuum, but is guided by the procedural law regulated in Law Number 24 of 2003 as amended several times, most recently by Law Number 7 of 2020 concerning the Constitutional Court (hereinafter referred to as the Constitutional Court Law).

Maruarar Siahaan (2011), a former Constitutional Judge who is also a procedural law scholar, in his various works always emphasizes that procedural law is the "heart" of material law enforcement. Without procedural law that provides procedural certainty, material justice is just wishful thinking. However, if an in-depth *analysis* of the articles in the Constitutional Court Law is carried out, a disturbing juridical fact is found, namely the existence of a very fundamental disparity or imbalance in regulation related to *case management timeline*.

a. Juridical Analysis of Regulatory *Disparity*

This inequality is not a trivial thing, but reflects the existence of a *double standard* applied by lawmakers (DPR and Government). If examined carefully, there is a striking difference in treatment between cases that contain "practical political interests" and cases that contain "constitutional rights of citizens" (Testing the Law).

In the regime of disputes over the results of general elections (PHPU), both the Presidential Election (Pilpres) and the Legislative Election (Pileg), the lawmakers show a very strong "*political will*" to create a speedy judiciary. This is evident from the formulation of the norms of Article 78 and Article 74 paragraph (3) of Law Number 24 of 2003 which expressly and imperatively (forcefully) order the Court to decide disputes in the Presidential Election within a maximum of 14 (fourteen) working days and Legislative disputes within 30 (thirty) working days.

It does not stop there, in the dispute regime of the Regional Head Election (Pilkada), Article 157 of Law Number 10 of 2016 also provides a maximum time limit of 45 (forty-five) working days. In fact, for very political cases such as the Dissolution of Political Parties, Article 68 of the Constitutional Court Law limits the settlement time to only 60 (sixty) working days.

From the above articles, it is clear that the state actually has the capacity to design a *time-bound judicial system*. However, strangely, the precision of the timing suddenly disappeared without a trace when entering the Law Testing regime (PUU). There is not a single phrase or clause found in the Constitutional Court Law or the Constitutional Court

Regulation (PMK) that requires constitutional judges to resolve material test cases within a certain duration.

As empirical evidence regarding the negative impact of the absence of this time limit, it can be seen in the handling of Case Number 106/PUU-XVIII/2020 related to the testing of Law Number 35 of 2009 concerning Narcotics (the issue of medical marijuana). This case began to be registered in November 2020, but the Constitutional Court only issued a ruling in July 2022, which means it took about 1 year and 8 months. This undue delay has become a sharp public spotlight, considering the urgency of the case concerning the right to health and life, where the child of one of the applicants even died before the verdict was read. This case is clear evidence that the vacancy of the norm of the time limit not only creates legal uncertainty, but also has the potential to cause fatal harm to justice seekers.

Titik Triwulan Tutik (2010), in his analysis of the construction of constitutional law, calls this phenomenon a deliberate legal vacuum (*rechtsvacuum*). The absence of this rule gives too much discretion and almost no control to the panel of judges. As a result, the settlement of PUU cases is not based on standard operational standards, but is entirely dependent on the subjectivity and work rhythm of each panel of judges. This is the root of the problem that causes *protracted* judicial delays.

To provide a more comprehensive visual picture of the injustice of this regulation, the author presents comparative data on the time limit based on the types of authority of the Constitutional Court as follows:

Table 1. Disparity in the Deadline for Settlement of Cases at the Constitutional Court

No	Types of Case	Legal Basis	Time Limit	Nature of Time
1	PHPU (Disputes over Presidential and Vice-Presidential Election Results)	Article 78 of Law 24/2003	14 Working Days	Mandatory (Imperative)
2	PHPU (Disputes over Legislative Election Results)	Article 74 of Law 24/2003	30 Working Days	Mandatory (Imperative)
3	PHPU (Disputes over Regional Head Election Results)	Article 157 of Law 10/2016	45 Working Days	Mandatory (Imperative)
4	Dissolution of Political Parties	Article 68 of Law 24/2003	60 Working Days	Mandatory (Imperative)
5	DPR Opinion (Impeachment)	Article 80 of Law 24/2003	90 Working Days	Mandatory (Imperative)
6	Authority Disputes between State Institutions (SKLN)	Article 61 of Law 24/2003	None	Flexible (Facultative)
7	Judicial Review of Laws (PUU)	Law 7/2020	None	Flexible (Facultative)

Source: Processed from the Constitutional Court Law and Related Regulations (2025)

The data in the table above are not just numbers, but empirical evidence of the existence of anomalies in the priority of legislation. Let's pay special attention to point number 5 regarding *impeachment*. The law provides a maximum time limit of 90 days for the Constitutional Court to decide on the opinion of the House of Representatives regarding alleged violations of the law by the President/Vice President.

Hamdan Zoelva (2011), former Chief Justice of the Constitutional Court, in his book *Presidential Impeachment in Indonesia*, provides a theoretical justification that a definite time limit in the *impeachment* process is absolutely necessary. Why? Because the impeachment process is directly related to the stability of the government. If the process is suspended indefinitely, there will be political shocks and a vacuum of executive power. Therefore, the law forces judges to act quickly in the "interests of the state".

However, the critical question that must be asked is: Why is the same logic of urgency not applied to the case of Testing the Law (Point 7)? In fact, the impact of a law that is allegedly unconstitutional (such as the Job Creation Law, the KPK Law, or the Mineral and Mineral Law) can directly harm millions of Indonesians. Why are matters concerning the fate of the political elite (such as elections and impeachment) given a "red carpet" in the form of strict time certainty, while matters concerning the human rights of the common people are left to hang indefinitely?

Mahfud MD (2010), an expert on constitutional law who is also the former Chairman of the Constitutional Court, analyzes this phenomenon as a reflection of the orthodox and elitist political character of the law. In Mahfud's view, legal products in Indonesia are often configured to serve the interests of power elites who want to secure their political positions, rather than serving the interests of pure law enforcement. The absence of a time limit in the PUU can be read as a political strategy to "tame" the critical power of civil society, where requests for a material review can be accepted, but the decision can be postponed until the political momentum is lost or the law has been effectively implemented.

b. Comparative Study: Efficiency and Procedural Discipline of the Constitutional Court of South Korea

The vacuum of norms in Indonesia feels even more ironic when compared to the practice of constitutional courts in other countries that have more established systems. One of the most relevant comparative legal meccas for Indonesia in the Asian region is the *Constitutional Court of South* Korea.

Tom Ginsburg (2003), a leading legal scholar who researches the development of *judicial review* in Asia's new democracies, in his book *Judicial Review in New Democracies*, places the Constitutional Court of South Korea as one of the most successful and efficient judicial models. Ginsburg highlighted that one of the keys to the success of the South

Korean Constitutional Court in maintaining public trust lies not only in the boldness of its ruling, but also in its efficient institutional design and high procedural discipline.

In diametrically different from Indonesia, which allows its constitutional judges to work without deadlines, South Korea has very strict and binding regulations. This provision is explicitly regulated in Article 38 of the Constitutional Court Act of Korea. The article expressly reads: *"The Court shall pronounce the final decision within 180 days after it receives the request for adjudication."* (The court is obliged to render a final decision within 180 days of receiving the application).

The provision of a 180-day deadline (or equivalent to 6 months) is not just a moral appeal, but an imperative legal order. With this rule, constitutional judges in South Korea are "forced" by the system to work in a measurable, effective, and efficient manner. Unnecessary *delays in the trial* can be minimized because the judges are aware that they are being monitored by a running time meter.

The implementation of this imperative deadline has proven to have a significant positive impact on the democratic climate in South Korea. As analyzed by Tom Ginsburg (2003), the certainty of the time for the settlement of cases is a fundamental factor that increases public trust in the integrity of the Korean Constitutional Court after authoritarianism. With a firm *deadline*, constitutional disputes are not allowed to become prolonged polemics, so that political stability and legal certainty for citizens are better maintained. This current model of discipline prevents the accumulation of cases (*backlog*) that can erode the authority of the judiciary.

The application of this strict time limit is in line with C.F. Strong's (2011) view of the modern constitution. Strong emphasized that the effectiveness of a constitution is determined not only by the substance of its beautiful articles, but also by its execution procedures that guarantee certainty. A good constitution requires a measurable enforcement mechanism in order to maintain the authority of the law itself. If a test of constitutionality is allowed to drag on, then the constitution loses its primary function as a protector of citizens' rights.

Furthermore, Mauro Cappelletti (1971), the father of comparative *judicial review* in the world, stated his thesis that *judicial review* will only be effective if the verdict is issued in a timely *manner*. Late decisions often become *futile* because the situation on the ground has changed, damage has already occurred, or the losses suffered by the applicant are *irreversible* damages.

Therefore, reflecting on the comparison, the 180-day time limit model implemented by South Korea is a very relevant and urgent best practice to be adopted into the revision of the Indonesian Constitutional Court Law. This adoption is not just an imitation, but an urgent need to end the legal uncertainty and disparity in treatment that has been occurring in the Constitutional Court of the Republic of Indonesia.

3. A Philosophical Review and Perspective of Siyasah Dusturiyah: Dissecting the Urgency of Time Certainty

The issue of the vacancy of the norm of the time limit for resolving cases in the Constitutional Court is essentially a constitutional issue. Therefore, the most appropriate analysis knife to use is Siyasah Dusturiyah (Politics of Legislation and Constitution). Although the principles of justice are sourced from the great umbrella *of Siyasah Syar'iyah*, in the context of the formation of regulations and judicial power, its application is concentrated in the fiqh *of Siyasah Dusturiyah*. This perspective demands that every legislative policy (*tasyri'*) is not only procedurally valid, but also guarantees legal certainty and keeps out harm for justice seekers.

a. Philosophical Analysis: The Antinomy of the Fundamental Value of Law

In the discourse of legal philosophy, Gustav Radbruch (1950), a German jurist, introduced the famous postulate of the three basic values that are the goals of law (*Idee des Recht*), namely Justice (*Gerechtigjeit*), Legal Certainty (*Rechtssicherheit*), and Utility (*Zweckmassigkeit*)). Ideally, a complete legal system should be able to accommodate all three values simultaneously. However, the empirical reality in the Constitutional Court shows that there is a serious tension or antinomy (*spannungsverhaltnis*) due to the absence of a time limit.

First, there is a deficit of Legal Certainty (*Rechtssicherheit*). The value of certainty requires clear, firm, and *predictable rules*. Satjipto Rahardjo (2014), the Father of Indonesian Progressive Law, in his various writings always emphasizes that the law must be able to be a definite guideline of behavior for society. When the Constitutional Court Law does not regulate the deadline for the settlement of material test cases, the law instantly turns into a gray area. Justice-seeking societies and business actors never have a definite picture of when: when will a law be declared unconstitutional or remain in effect? Is it one month, one year, or five years? This ambiguity of duration clearly hurts the *principle of the Rechtssicherheit*, in which citizens are left to be swayed in endless legal speculation.

Second, the neglect of Utility (*Zweckmassigkeit*). The law should serve the welfare and happiness of man. However, the protracted *phenomenon of judicial delay* actually produces social harm. Achmad Ali (2009) in his legal theory reminds that a law that is slow to work will be a burden for socio-economic progress. Take concrete examples of the testing of laws related to the investment climate or macroeconomics. Every day the delay of the verdict means prolonging investors' hesitation to invest their capital for fear of changing the rules of the game in the middle of the road. In this context, the Constitutional Court failed to provide maximum benefits because its long-winded judicial process actually hindered the acceleration of national development.

b. Siyasah Dusturiyah*'s Perspective*: Upholding the Mandate of Immediate Justice

The next analysis swoops into the perspective of Islamic law. In the treasures of *Siyasah Dusturiyah* (Islamic Constitutional Law), the arrangement of judicial power is known as *Wilayatul Qadha*. J. Suyuthi Pulungan (2002) in his monumental work *Fiqih Siyasah*, explained that the judiciary occupies a very sacred position. The judge is not just a dispute settler, but a manifestation of the divine nature to uphold the truth on earth. Therefore, the principle of the administration of justice in Islam emphasizes the aspect of speed and accuracy to avoid the occurrence of new tyranny.

The epistemological basis of this principle is clearly recorded in *the Treatise of Al-Qadha*, a legendary letter of instruction from Caliph Umar bin Khattab to Abu Musa Al-Ash'ari (Governor and Judge in Kuffah). One of the most crucial points of instruction in the treatise is the commands: *"Fham idza udliya ilaika"* (Understand immediately when the matter is brought to you) and *"Anfidz idza tabayyana"* (Carry it out immediately when the truth is revealed).

According to Ibn Qayyim Al-Jauziyah's in-depth analysis in the book *I'lam al-Muwaqqi'in*, both phrases contain the doctrine *of 'Adam al-Ta'khir*, which is a strict prohibition for judges to delay the fulfillment of rights for justice seekers. Postponing a decision without shari'i reasons (*udzur syar'i*) is clearly considered a form of betrayal of the mandate of the office.

Furthermore, every regulation (or lack thereof) must be measured based on the parameters of *Maqashid Syariah* (Shari'a Goals). Abu Ishaq Al-Syatibi (2003) in *his* magnum opus *Al-Muwafaqat* emphasized that the main purpose of the revelation of the law is to realize the benefits of servants (*tahqiqul maslahil 'ibad*). The absence of a deadline for resolving cases at the Constitutional Court currently threatens the existence of two of the five main elements of protection (*Al-Ushul Al-Khamsah*).

The first threat was directed at *Hifzhu al-Mal* (Protection of Property). The delay in the decision of testing laws with economic nuances has a destructive systemic impact. When the legal status of an economic law "hangs" for many years, what happens is economic stagnation that leads to the loss of the wealth of the ummah (*idha'ah al-mal*). In the rules of *Siyasah Maliyah*, A. Djazuli (2003) emphasized that the policy of the ruler should not allow state assets and public property to be at risk of damage or futility due to legal uncertainty.

The second threat is directed at *Hifzhu al-Nafs* (Protection of Lives/Human Rights). Justice is a spiritual need that is just as important as a physical need. A person whose constitutional rights are violated and has to wait for the Constitutional Court's decision for many years without clarity, is actually experiencing an injury to human dignity. Therefore, the determination of the deadline for the settlement of cases is a *step of Sadd*

al-Dzari'ah (closing the gap of damage) that must be carried out by the state (*Ulil Amri*) to ensure the upholding of substantive justice, not just procedural justice.

4. Regulatory Reconstruction: Towards a Responsive and Accountable Constitutional Court

Based on the comparative analysis of the law with South Korea and the in-depth review *of Siyasah Dusturiyah* above, concrete steps are needed to reconstruct the procedural law of the Constitutional Court. This reconstruction must not stop at the level of moral discourse alone, but must be outlined in positive legal norms that are coercive (*dwingend recht*). This research offers a comprehensive new regulatory design in the revision of the Constitutional Court Act.

a. Positivization of the Norm of the 180-Day Imperative Deadline

The first and most fundamental step is to change the nature of time-management from being discretionary (free) to imperative (mandatory). The Constitutional Court Law must be amended by including an explicit article that reads: "The Constitutional Court is obliged to decide the case of legal testing no later than 6 (six) months or 180 (one hundred and eighty) working days from the time the application is recorded in the Constitutional Case Registration Book (BRPK)."

The selection of the number 180 today was not done arbitrarily, but was based on the principle of *tawazun* (balance). Bagir Manan (2005), in his theory of independent judicial power, states that a good judiciary must be able to balance between *speed* and accuracy. The duration of 6 months is considered to be a very ideal time—not so fast as to sacrifice the judge's *indepth analysis*, but also not so long that it causes a loss of justice momentum for the applicant. With a clear statutory *deadline*, justice seekers have certainty of when their constitutional fate will be determined.

b. Modernization of Case Management through the "*Early Warning System*"

In order for the deadline provisions not to end up becoming barren rules or "paper tigers", the support of a modern and technology-based case management system is needed. This study proposes the establishment of an *Early Warning System mechanism* in the Constitutional Court clerkship. This system is designed to work automatically to provide multi-level notifications to the Panel of Judges handling cases.

This mechanism divides the case handling time into three critical phases. First, the Green Phase (Months 1 to 3), which is allocated for preliminary examination and application improvement. Second, the Yellow Phase (4th to 5th Month), where the Registrar is obliged to give an official notification that the case has entered the critical time zone for the Judges' Consultative Meeting (RPH). Third, the Red Phase (6th Month), which is the period of finalization of the draft decision (*legal drafting*). This system is in line with the principles of modern judicial management put forward by Maruarar Siahaan

(2012), where judicial administration must function as a *supporting unit* that actively maintains the rhythm of the judge's work, not just waiting for orders.

c. The Urgency of *Transitional Provision*

In addition to setting deadlines and an early warning system, the revision of the law must also consider the intertemporal aspects of the law through the Transitional Rules. Maria Farida Indrati (2020) in her book *Ilmu Hukum* emphasizes that transitional rules are absolutely necessary to bridge legal changes so as not to create a vacuum or uncertainty for ongoing legal events (*intertemporal law*). Without a clear transitional rule, the implementation of the new norm has the potential to cause legal *chaos* for "backlog" cases that have been registered before this rule took effect.

Therefore, this study proposes the formulation of the norm of the Transitional Rule which reads: *"For applications for testing of laws that have been registered before the enactment of this law and have not been decided by the Constitutional Court, it must be completed no later than 6 (six) months from the promulgation of this law."*

This transitional provision serves as a grace *period* for the Constitutional Court to "clean" the arrears of old cases. This approach is in line with the principle of the implementation of the procedural law proposed by Sudikno Mertokusumo (2010), namely the principle *of onmiddellijke werking* (immediate enforcement), where the new procedural law can be applied immediately to the ongoing case, but must still provide a reasonable grace period for the sake of justice. With this clause, constitutional judges are encouraged to immediately resolve the *past burden* before fully implementing the new discipline regime of the time strictly.

d. Implementation of Ethical Sanctions and External Supervision

This is the most important dimension that has often been absent from the discourse on reforming the Constitutional Court's procedural law. A rule of law without sanctions is only moral advice. Therefore, a violation of the 180-day deadline without a valid and urgent reason (*force majeure*) must be qualified as a violation of the Code of Ethics and Code of Conduct for Judges (KEPPH).

Jimly Asshiddiqie (2014), in his book *Judicial Ethics and Constitutional Ethics*, affirms the thesis that the professionalism of judges is not only measured by the quality of their decisions, but also by their adherence to *procedural compliance*. A judge who deliberately delays deciding the case (*unprofessional conduct*) even though the 180-day deadline has been exceeded, can be reported to the Honorary Assembly of the Constitutional Court (MKMK).

The sanctions applied must be multi-layered administrative to provide a deterrent effect. Starting from light sanctions in the form of written reprimands, statements of dissatisfaction, to sanctions that have an impact on remuneration such as reduction in

performance allowances for judges who are proven to be negligent. The threat of ethical sanctions will serve as *a coercive instrument* for constitutional judges to change the work culture to be more disciplined and dispute *resolution oriented*. Without coercive instruments, it is impossible to expect a change in the culture of the judicial bureaucracy that is used to slow work patterns.

D. Conclusion

This study concludes that the absence of a deadline for resolving law testing cases in the Constitutional Court is not just an administrative technical problem, but a systemic failure in maintaining the supremacy of the constitution. The synthesis of the legal findings shows that there are *double standards* of lawmakers who create sharp disparities; on the one hand it provides an imperative time limit on political disputes (elections/regional elections), but on the other hand it allows the testing of laws to be trapped in unlimited discretionary space. Critically, this condition is considered as a form of structural weakening of the *check and balance function*, where the Indonesian Constitutional Court is far behind the Constitutional Court of South Korea which has implemented a discipline of 180-day time limit for judicial efficiency.

A critical evaluation of the legal implications shows that this normative vacuum has hurt the pillars of legal certainty (*Rechtssicherheit*) and utility. From the perspective of *Siyasah Dusturiyah*, *undue delay* without a valid reason (*uzur syar'i*) is a serious violation of the principle of *Wilayatul Qadha* which demands the resolution of cases fauriyah (immediately). These findings confirm that the uncertainty of the time directly threatens the realization *of Maqashid Sharia*, especially in the aspect of asset protection (*Hifzhu al-Mal*) due to the speculative investment climate, and the protection of human rights (*Hifzhu al-Nafs*) for justice seekers who have been neglected of their constitutional rights.

As a prospect for future legal development, this study offers regulatory reconstruction through the revision of the Constitutional Court Law by adopting the norm of an imperative deadline of a maximum of 6 (six) months or 180 days. The application of this norm is projected to bring positive implications in the form of: (1) Increasing public *trust* in the independence of the Court; (2) The creation of a more disciplined and accountable work culture for judges through the supervision of the *early warning system* and ethical sanctions; and (3) Ensuring legal certainty for the community and business actors. This idea is expected to be a blueprint for the reform of the procedural law of the Constitutional Court so that it returns to its khittah as a simple, fast, and low-cost judiciary.

Bibliography

Ali, Achmad. (2009). *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence)*. Jakarta: Kencana.

Al-Jauziyah, Ibn Qayyim. (n.d.). *I'lam al-Muwaqqi'in 'an Rabb al-'Alamin.* Beirut: Dar al-Fikr.

Al-Syatibi, Abu Ishaq. (2003). *Al-Muwafaqat fi Ushul al-Syariah*. Beirut: Dar al-Kutub al-Ilmiyah.

Asshiddiqie, Jimly. (2006). *Pengantar Ilmu Hukum Tata Negara*. Jakarta: Konstitusi Press.

Asshiddiqie, Jimly. (2014). *Peradilan Etik dan Etika Konstitusi*. Jakarta: Sinar Grafika.

Cappelletti, Mauro. (1971). *Judicial Review in the Contemporary World*. Indianapolis: Bobbs-Merrill.

Djazuli, A. (2003). *Fiqih Siyasah: Implementasi Kemaslahatan Umat dalam Rambu-rambu Syariah*. Jakarta: Kencana.

Ginsburg, Tom. (2003). Judicial Review in New Democracies: Constitutional Courts in Asian Cases. Cambridge: Cambridge University Press.

Huda, Ni'matul. (2011). *Dinamika Ketatanegaraan Indonesia dalam Putusan Mahkamah Konstitusi*. Yogyakarta: FH UII Press.

Indrati, Maria Farida. (2020). *Ilmu Perundang-undangan: Jenis, Fungsi, dan Materi Muatan*. Yogyakarta: Kanisius.

Mahfud MD, Moh. (2010). *Politik Hukum di Indonesia*. Jakarta: Rajawali Pers.

Manan, Bagir. (2005). *Kekuasaan Kehakiman Republik Indonesia*. Bandung: LPPM Universitas Islam Bandung.

Marzuki, Peter Mahmud. (2014). *Penelitian Hukum*. Jakarta: Kencana.

Mertokusumo, Sudikno. (2010). *Hukum Acara Perdata Indonesia*. Yogyakarta: Cahaya Atma Pustaka.

Pulungan, J. Suyuthi. (2002). *Fiqih Siyasah: Ajaran, Sejarah, dan Pemikiran*. Jakarta: Rajagrafindo Persada.

Radbruch, Gustav. (1950). *Legal Philosophy*. (K. Wilk, Trans.). *In The Legal Philosophies of Lask, Radbruch, and Dabin*. Cambridge: Harvard University Press.

Rahardjo, Satjipto. (2014). *Ilmu Hukum*. Bandung: Citra Aditya Bakti.

Siahaan, Maruarar. (2011). *Hukum Acara Mahkamah Konstitusi Republik Indonesia*. Jakarta: Sinar Grafika.

Soekanto, Soerjono. (2015). *Pengantar Penelitian Hukum*. Jakarta: UI Press.

Strong, C.F. (2011). *Konstitusi-Konstitusi Politik Modern*. Bandung: Nusa Media.

Tutik, Titik Triwulan. (2010). *Konstruksi Hukum Tata Negara Indonesia Pasca Amandemen UUD 1945*. Jakarta: Kencana.

Zoelva, Hamdan. (2011). *Pemakzulan Presiden di Indonesia*. Jakarta: Sinar Grafika.

Khallaf, Abdul Wahhab. (2005). *Politik Hukum Islam (Siyasah Syar'iyah*). Yogyakarta: Tiara Wacana.

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

Undang-Undang Nomor 24 Tahun 2003 tentang Mahkamah Konstitusi sebagaimana telah diubah terakhir dengan Undang-Undang Nomor 7 Tahun 2020.

Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman.

Constitutional Court Act of Korea (South Korea).