

Construction of Ratio Decidendi Constitutional Judges to Maintain the Authority of the Indonesian Constitution

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Abstract—In general, every judge who will make a judgement must be preceded by or formed around a number of factors. A Constitutional judge's arguments in deciding a case that has been brought before him is based on legal grounds. The "ratio decidendi" became a constructive means of constructing these legal considerations. Assume the constitutional judges' legal arguments are invalid and unsuitable. In that circumstance, the people seeking justice or the general public have the right to decide whether the decision is just or proper. If the constitutional judges are doing their jobs correctly, they should be appointed as guardians of the Indonesian constitution's privileges.

Keywords— Authority, Guard, Judge, Constitution, Justice, Interpretation.

I. INTRODUCTION

Everyone want to reflect on the nature of his existence, the course of his life will be filled with many ordinary circumstances in which he might take pleasure. Humans, in theory, recognize that the nature of human life in state life necessitates a peaceful, peaceful, just, wealthy, prosperous, and happy existence. Furthermore, being in a legal state (rechtsstaat) ensures that all citizens are treated equally in the eyes of the law and the government. Justice, truth, morals, and the rule of law all become major considerations.[1]

When a judge makes a mistake, it's only natural for a bad judgment to be aimed at him, especially if he's a constitutional judge. According to Ni'matul Hudal, the arrest of Akil Mochtar sparked "political uproar" and "huge anguish" among those who hoped the Constitutional Court would oversee reform and the establishment of a democratic rule of law. People don't seem to believe that judges, even in the Constitutional Court, are untrustworthy and willing to sacrifice their dignity for a monetary gain.[2]

The executive, legislative, and judicial branches of the state of law, also known as rechtsstaats, are in charge of carrying out government power. Judicial authority is a body or entity charged with finding positive legal ways, which judges carry out through concrete investigations, assessments, and conclusions, as well as objectively resolving conflict problems in society in order to attain substantive justice.[3]

The judge's belief in resolving a case for the parties

should ideally reflect the nature of truth and fairness. When considering a matter, how superior is the construction of a Constitutional Court judge's conviction.

II. RESEARCH METHOD

The type of research employed is normative juridical research. Legal research that examines library legal materials or secondary data is known as normative juridical research. A statutory approach, a conceptual approach, and a historical approach are all used in this study. The primary, secondary, and tertiary legal materials employed in this study are primary, secondary, and tertiary legal materials. The legal resources that were collected first are whittled down to determine their legal validity and usefulness for this writing material.[4]

Legislation and other legal materials that have been found to be legitimate and suitable are directly described in the form of an abstraction. In terms of the described legal material, it is then investigated to discover the type and availability of information in order to get information in the form of legal certainty and normative consequences. The qualitative descriptive analysis utilized to explain this research is based on the concepts of justice, legal certainty, and expediency, and takes into account philosophical, juridical, sociological, and other factors according to the underlying aspects.[5]

III. FINDINGS AND DISCUSSION

It takes a lot of effort to go from terrible to good. Several cases put constitutional reform to the test, weakening the dignity of being found guilty and removed as an institution. Independence of the Supreme Court and the impartiality of constitutional justice serious instances based on the second Honorary Council Decision (MKMK) of the Constitution (MK) and constitutional judges began to be questioned, and negative attitudes emerged as the institution and its members became problematic. Of course, the Constitutional Court No.01/MKMK-SPL/II/2017 is inspired by the judge's decision or action.[6]

The case against Constitutional Justice Patrialis Akbar, who received bribes during the settlement of the case for testing the Animal Husbandry Law, was the focus of KPK's arrest operation (2017). The cases of Constitutional Justice Akil Mochtar and Constitutional Justice Patrialis Akbar include grave legal, ethical, and moral transgressions. This situation demonstrates that the institution that is the biological offspring of reform is not

immune to corruption (judicial corruption) by constitutional judges. considered to have broken the law, morals (morality), and ethics (ethics). The role of the judge, in particular, is associated with faith. There is no reason to pursue a career as a judge if one lacks faith or is readily doubted.[7]

Confidence is a true belief, certainty, stipulation, or conviction, or sure is a genuine belief, certainty, and stipulation in the language of "belief." While belief is defined as "certitude, conviction, and certainty" in English. According to Dudu Duswara, the term for belief in English is "conviction." Conviction can have a variety of meanings. The first is defined as a position, such as "He is a guy of strong conviction" (he is someone who is convinced), whereas the second is defined as "belief and certainty." For instance, "His words carry conviction" (his words carry conviction), and "Judgment" is the third definition. "His belief is certain," for example.[8]

According to TM. Hasbi Assiddieqie, belief is something that is identified based on an investigation or argument, and something that has been convinced that it will not vanish unless another believe appears. According to Olsen and his colleagues, belief is a distinct thought about numerous parts of life that the owner believes to be true, despite the development of various facts that contradict the owner's view. Human belief in the existence of ghosts, for example, is a type of belief; additional examples can be found in society.[9]

According to Ahmad Hamdan, belief is also synonymous with law, which evolves or undergoes a dynamic process in society. The maximal activity or performance that a person engages in influences how convinced they are of something. Confidence evolves in tandem with a societally validated worldview, which varies from one group to the next. A society that evolved from the era of slavery or the installation of segregation policies in the United States, for example, will believe that black people will always feel inferior to white people. People who hold a patriarchal worldview believe that men have benefits or are superior to women in the public realm. This resulted in the domestication of women's roles and position in the workplace and in the realm of power.[10]

Some argue that belief systems are the foundation of inter-relationships of beliefs from various beliefs related to various social conditions or types of activities; others argue that belief systems are the basis of inter-relationships of beliefs from various beliefs related to various social conditions or types of activities. As a result, belief systems are more complex than the specific ideas they contain. Even though a belief system may include many internal inconsistencies, specific beliefs that are part of it tend to create a unified whole.[11]

Assume that one of the black colors on the chessboard represents the worldview, and that the belief system represents the frame or framework required by that belief. Humans normally act logically to accept the beliefs and belief systems that arise, therefore society as a collection of humans frequently consists of a chaotic cross of belief systems that are accepted by parts of the community,

some alter or even reject them as a whole.[12]

The judge's function or obligation in making decisions in each case before him, determining legal occurrences, legal relations, the legal value of behavior, and the legal positions of the parties engaged in the case in order to resolve a dispute or conflict. The judge must always be impartial and free from the influence of any side, especially while issuing a decision, based on applicable law. All philosophical, legal, and sociological components of the judge's judgment must be examined in order for the justice to be realized and accounted for in the judge's decision is justice oriented to legal justice, social justice, and moral justice.[13]

Furthermore, it must be understood that the dispute over judges' obligations as law enforcers by observing the law against their duty as justice enforcers even if they must depart from the law's provisions is an old one. There is no longer a distinction between the civil law tradition, in which judges serve merely as mouthpieces for the law, and the common law tradition, in which judges serve as legal justice makers even if they must break the law. Both are seen as complementary requirements. These two things are placed in an equal strong position in Indonesia's modified constitution. According to Article 24, paragraph 1, judicial power is an autonomous power to administer justice in order to enforce "law" and "justice." Everyone has the right to recognition, guarantee, protection, and "reasonable legal certainty," according to Article 28D, paragraph 1. As a result, the emphasis is not only on legal clarity, but also on legal certainty that is fair.[14]

This commitment to pursue substantial justice is not only supported by the 1945 Constitution, but also by Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court, which serves as a defender of the constitution, democracy, and law. "The Constitutional Court evaluates matters based on the 1945 Constitution of the Republic of Indonesia in accordance with the facts and the judge's conviction," says paragraph 1 of Article 45. The evidence and the judge's belief must be the basis for the decision to uphold substantive justice, according to this article, especially if the litigating parties expressly want *ex aequo et bono* (fair decisions).[15]

Every choice is taken "For Justice Based on the One Godhead," not "For Legal Certainty Based on the Law," as it is typically emphasized. This is the foundation that allows judges to make decisions that uphold justice even when they are obliged to break the law's formal requirements that obstruct justice. In considering a case, judges should weigh both legal and philosophical truths. Judges must make just and sensible rulings by taking into account the legal implications and societal consequences of their decisions. Legal certainty emphasizes that laws and regulations are implemented according to the philosophy adopted by the sound of the law (regulations). The law enforcement adage "Fiat Justitia et perat mundung Rauat Coullum" (even if the sky falls, the law must still be enforced) and the sociological value place a premium on the community's advantages from judges' rulings.[16]

In a normal situation, the Court serves as a venue for obtaining justice. The name "Court" and the orders of the judges' decisions, which are the carriage's doors, represent this. Judges do not resolve issues "for the purpose of the law" or "for the sake of the law," but "for the sake of justice based on the One Godhead," according to these orders. This indicates that the judge is morally responsible to God Almighty for his choices, and that the judge's job is to uphold truth and justice.[17]

Facts demonstrate that not all judges are aware that their judgements would be held accountable before God Almighty in this world. Although it is difficult to quantify how a judge's decision satisfies one's sense of justice statistically, there are signs or factors that can be utilized to perceive and feel if the judgement satisfies one's sense of justice or not. This indicator can be found in a judge's "legal considerations." The judge's reasoning in deciding a case is based on legal issues. The term "ratio decidendi" becomes quite useful in this context. People or society can determine that the decision is not factual or unfair if the legal rationale is false and improper.[18]

In judging the case, the judge will rely on his personal beliefs. Judges must be based on the values of truth and justice in order to give not only legal clarity, but also justice and expediency, in accordance with this concept. According to Cross, ratio decidendi is "a rule of law openly or implicitly treated by the judge as a necessary step in arriving at his conclusion, having respect to the line of reasoning selected by him (or as a required portion of an instruction to a jury)." Ratio decidendi is a rule of law that is explicitly or implicitly implemented by the judge as a decisive stage in reaching his decision, taking into account the reasoning contained therein, or as an important part of the jury's direction), with a logical, methodical, and systematic approach, so that the judge's decision can be accepted by the community.[8]

The irony is that the Court's decisions are moving away from using the parameters of legal objectives, such as legal certainty, expediency, and justice. The inclination for parties to falsify facts in order to further their own interests can also inspire judges to take sides with one party, resulting in verdicts that lack a sense of justice. This can be evident in the judge's decision factors. Improper legal considerations can occur for a variety of reasons, including the judge's lack of legal understanding concerning the issue at hand, the judge's purposeful use of false or improper legal reasoning, and other factors such as pressure from particular parties, bribes, and other factors. Another factor affecting the judge's independence is that the judge does not have enough time to write down all good legal arguments because there are too many cases to resolve in too little time, and the judge is too lazy to increase his knowledge and insight, lowering the quality of the decisions he makes. Although this is an indirect aspect, it is adequate to establish the decision's quality.[19]

When making a decision in a case, the judge must weigh both the legal and philosophical truths (justice). Judges must make just and sensible rulings by taking into account the legal implications and societal consequences

of their decisions. "The Constitutional Court decides cases based on the 1945 Constitution of the Republic of Indonesia, in accordance with the evidence and the judge's conviction," according to Article 45 paragraph 1 of Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court. Furthermore, it is stated in the explanation of article 45 (1) that "judge's conviction" refers to the judge's belief based on facts.[20]

Constitutional judges are State Officials who are authorized to receive, examine, adjudicate, and decide cases based on the principles of freedom, honesty, and impartiality, according to Article 5 of Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court. The Republic of Indonesia's Unitary State is a legal entity founded on Pancasila and the Republic of Indonesia's 1945 Constitution, with the goal of creating an ordered, clean, prosperous, and just society for the nation and state. As a result, constitutional judges must have unblemished character, be fair, and possess the spirit of a statesman in order to supervise the constitution and state administration. So, in accordance with the judge's beliefs, the judge should have freedom of movement, integrity, broad horizons of view, and motivation in making decisions, all of which are guided by the philosophy employed, so that judges' decisions are fair, authoritative, and in favor of truth values can be realized.[21]

The application of a legal norm necessitates the movement of law enforcement officials. Without humans as law enforcement officers, the law will not function in accordance with its intended purpose. As a result, the success of law enforcement is not solely dependent on the legislation, but also on the presence of law enforcement officials as human people who enforce it. Whether law enforcement is excellent or poor is reflected in the behavior of law enforcement officers themselves. Law enforcement officers must not only be able to actualize the law from its abstract to concrete positioning, but also be professional and proportional based on wisdom. If the law exists as an instrument that produces benefits, it will be viewed as a state product that ensures the protection of the community's interests, including the interests of sustaining the people's sovereignty. If law enforcement agents operate at their best while dealing with various case findings or legal cases, the presence of the law will be able to bring great benefits to the community or justice seekers.[22]

Although each side is certain that the case he has filed in the Constitutional Court will be successful, the applicant's and respondent's beliefs are not always in line with the constitutional judge's decision. Constitutional judges with the right to freedom protected by statutory laws have the authority to rule differently, which is not the same as what the applicant and respondent believe. This can be catastrophic if the moral aspect is removed from the judge's performance, despite the fact that some perspectives do not accept it, implying that law and morals have no link and are different things in the positivist perspective. Even their link (constitutional

morality and the rule of law) is more or less an abstract commitment in the game's rules.[23]

The conviction of constitutional judges serves as the foundation for evidence-based judgements, with the judge's stance as an object being reasoned with the "ratio decidendi". During the trial, each party who presents evidence proves the other so that the judge can determine whether quality of evidence can persuade or affect the judge's belief, regardless of whether the evidence is presented by the applicant or the respondent. According to Yoedi, in believing, three aspects must be considered: aspects of comprehension, aspects of desire (for practice), and aspects of feelings. The factor of understanding implies that humans must first comprehend what we think, then apply it, and last examine their sentiments. whether you're happy or not Of course, what should happen is that humans achieve happiness; otherwise, humans must examine whether the two prior parts are true.[3]

"Judicial power is an independent power to administer justice to uphold law and justice," according to Article 24 paragraph (1) of the Republic of Indonesia's 1945 Constitution, and "everyone has the right to recognition, guarantees, protection, and fair legal certainty and equal treatment before the law," according to Article 28D paragraph (1) of the 1945 Constitution. "The Constitutional Court decides matters based on the 1945 Constitution of the Republic of Indonesia, in accordance with the facts and the judge's conviction," according to the Constitution.[24]

In the instance of judicial review, for example, legal rules that are abstract and binding on the general public are being examined. Although the petition for review claims that the applicant's constitutional rights have been violated, this action really serves the legal interests of the entire community, namely the preservation of the constitution. The legislators, the DPR, and the President are not the defendant or respondent who must be held accountable for their errors. The lawmaker is merely a related party who offers background and purpose information about the provisions of the law under consideration. It is intended that the provisions under consideration be read not only according to the applicant's or the Constitutional Court's viewpoints, but also according to the lawmakers', in order to obtain a legal conviction as to whether or not they are in violation of the constitution.[25]

As a result, not only do those who are obligated and must implement the Constitutional Court's decision have to make legislation, but so do all parties involved in the provisions made by constitutional judges. The Constitutional Court is one of the judicial powers other than the Supreme Court that has been outlined or determined by the Constitution. The Constitutional Court is responsible for independently and impartially upholding the constitution and protecting citizens' constitutional rights. The Constitutional Court has written a new chapter in the history of state institutions' equitable and balanced relationships.[26]

The Constitutional Court's principal technique of

safeguarding the constitution is to hear and rule on judicial review applications in which the applicant's legislative product contains faults in norms or is unconstitutional, according to him. If the constitutional judge's ruling is right, the favorable impact on the judiciary, at least on the Constitutional Court, will be preserved.[27]

IV. CONCLUSION

The right to justice is one of the most basic human necessities. Justice will be felt and seen through the legal construction made by the judge by assessing each piece of evidence provided at the trial one by one in order to arrive at confidence in making or formulating the ground for consideration before the verdict is handed down. This demonstrates that constitutional judges' convictions cannot be divorced from the dimensions of the judges' own choices based on the usage of "ratio decidendi." However, this does not imply that courts are allowed to disregard or disregard the law's provisions. Even if the legislation has been explicitly controlled and judged fair, the judge must nonetheless follow the law. Meanwhile, what I'd like to underline here is the notion that, under Indonesia's constitutional system, judges are permitted to make decisions that are based on justice, because it is only through justice that the constitution's authority can be properly preserved.

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