

THE CONSTITUTIONAL COURT AND THE APPLICATION OF INTERNATIONAL HUMAN RIGHTS NORMS: INDONESIA'S EXPERIENCE*

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Introduction

In 2002, Indonesia completed a series of constitutional amendment that marked the Indonesia's transformation to become a democratic constitutional state under the rule of law. A number of new constitutional provisions were adopted and new institutions were established, including the formation of constitutional court as well as the adoption of a bill of rights. These two new 'instruments' have been believed as fundamental for the application of a democratic constitutional state under the rule of law. Furthermore, the principle of the rule of law was inserted into the paragraph of the Amended Constitution, which is available in Art. 1 para (3).¹

The powerful new Constitutional Court (hereafter the CC) was officially established in 2003. Art. 24C para (1) of the Amended Constitution grants it the powers to make the final decision in reviewing statutes in the light of the Constitution; to determine dispute concerning the authority of the state organs whose power is derived from the Constitution; to dissolve political parties; and to resolve disputes regarding the results of a general election. Moreover, it has the power to make decisions concerning opinion of the House of Representatives with regard to alleged violations by the President and/or the Vice President of the Constitution. In other words, it has the power to have the final legal say in any impeachment proceedings.²

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¹ Previously, this principle was available in the Elucidation of the Constitution.

² Art. 24C para (2) of the 1945 Constitution as amended by the Third Amendment.