

ABSTRAK

Mahkamah Konstitusi merupakan lembaga yang berfungsi sebagai *the protector of citizen's constitutional rights*. Guna menjalankan fungsi tersebut Mahkamah Konstitusi melindungi hak konstitusional warga negara melalui *judicial review*. Seiring berkembangnya ketatanegaraan di Indonesia, *judicial review* dirasakan belum dapat sepenuhnya melindungi hak konstitusional warga negara. Warga negara tidak memiliki upaya hukum atas hak konstitusionalnya yang terlanggar akibat perbuatan atau kelalaian dari pejabat publik. Kondisi demikian mendorong adanya pemikiran akan perluasan kewenangan Mahkamah Konstitusi mengadili *constitutional complaint*.

Penulisan hukum ini bertujuan untuk menjelaskan model putusan Mahkamah Konstitusi yang pernah dilakukan terhadap permohonan *constitutional complaint*, memaparkan urgensi perluasan kewenangan Mahkamah Konstitusi mengadili *constitutional complaint*, dan menjelaskan konsep *constitutional complaint* yang dapat diterapkan di Indonesia. Metode pendekatan yang digunakan dalam penulisan hukum ini adalah yuridis normatif dengan metode pengumpulan data sekunder.

Berdasarkan hasil penelitian yang kemudian dituangkan dalam penulisan hukum ini, maka dapat diketahui bahwa: *pertama*, model putusan Mahkamah Konstitusi terhadap permohonan *constitutional complaint* yaitu ditolak, tidak dapat diterima, dan konstitusional bersyarat; *kedua*, urgensi perluasan kewenangan Mahkamah Konstitusi mengadili *constitutional complaint*, antara lain: sebagai bentuk pengutan konstitusionalisme di Indonesia, memaksimalkan fungsi Mahkamah Konstitusi sebagai pelindung hak konstitusional warga negara, menekan persepsi masyarakat dalam menggunakan *judicial review* sebagai pintu masuk permohonan *constitutional complaint*, dan adanya perkembangan hukum ketatanegaraan di Indonesia; *ketiga*, konsep penerapan *constitutional complaint* di Indonesia yang merujuk pada Mahkamah Konstitusi Jerman dan Turki.

Kata kunci : Mahkamah Konstitusi, *Constitutional Complaint*, Perlindungan Hak Konstitusional Warga Negara

ABSTRACT

The Constitutional Court of Republic of Indonesia is a institution that serve as protector of citizen's constitutional rights. To carry out the fuction of the Constitutional Court protects the citizen's constitutional rights through judicial review. Along with the development of state administration in Indonesia, the judicial review has not been able to fully protect citizen's constitutional rights. Citizens have no legal remedy for their constitutional rights violated by the act or omission of public officials. Such conditions encourage the idea of extending the authority of the Constitutional Court to hear the constitutional complaint.

This thesis aims to explain the model of the Constitutional Court decision that has been made against the application of constitutional complaint, exposes the urgency of the extension of the authority of the Constitutional Court to adjudicate the constitutional complaint, and to explain the concept of constitutional complaint that can be applied in Indonesia. The method of approach used in the writing of this law is the normative juridical method of collecting secondary data.

Based on the results of research which then poured in the writing of this law, it can be seen that: first, the decisions of the Constitutional Court against the application of constitutional complaint is rejected, unacceptable, and conditionally constitutional; secondly, the urgency of the extension of the authority of the Constitutional Court to adjudicate the constitutional complaint, among others: as a form of constitutionalism in Indonesia, maximizing the function of the Constitutional Court as a protector of the constitutional rights of citizens, suppressing the public's perception in using judicial review as the entrance of constitutional complaint, and the development of constitutional law in Indonesia; third, the concept of applying constitutional complaint in Indonesia which refers to the Constitutional Court of Germany and Turkey.

Keywords : Constitutional Court, Constitutional Complaint, and Citizen's Constitutional Rights