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RECONSTRUCTING *OBSCUUR LIBEL* DOCTRINE IN CONSTITUTIONAL COURT DECISIONS

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Abstract: This study examines the relationship between procedural formalism, the *obscuur libel* doctrine, and access to substantive constitutional justice in Constitutional Court Decision No. 75/PUU-XXII/2024. The study addresses the tension between procedural accuracy and the constitutional function of judicial review, particularly when procedural deficiencies prevent a petition from reaching substantive examination. This study employs normative legal research using statutory, conceptual, and case approaches. Primary legal materials consist of constitutional and statutory provisions, Constitutional Court procedural regulations, and Constitutional Court decisions, while secondary materials include scholarly literature on procedural formalism, judicial avoidance, *obscuur libel*, judicial minimalism, and substantive justice. The analysis examines the Court's reasoning by tracing the relationship between the procedural requirements applied, the alleged defect in the petition, the Court's assessment, and the resulting procedural consequence. The study finds that the Court's declaration of inadmissibility cannot automatically be characterized as judicial avoidance because the Court provided opportunities to correct the petition and based its determination on procedural considerations. Nevertheless, the case demonstrates how procedural formalism may produce an avoidance like effect when a procedural defect terminates examination before legal standing and the constitutional merits are considered. This study proposes substantive admissibility as a framework for reconstructing the application of *obscuur libel* through five considerations: formal clarity, constitutional identifiability, essentiality, correctability, and proportionality. The framework seeks to preserve procedural certainty while preventing non-essential or correctable defects from unnecessarily obstructing substantive constitutional adjudication.

Penelitian ini mengkaji hubungan antara formalisme prosedural, doktrin obscuur libel, dan akses terhadap keadilan konstitusional substantif dalam Putusan Mahkamah Konstitusi Nomor 75/PUU-XXII/2024. Penelitian ini membahas ketegangan antara ketepatan

prosedural dan fungsi konstitusional pengujian yudisial, terutama ketika kekurangan prosedural menghalangi suatu permohonan untuk mencapai tahap pemeriksaan substantif. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan yuridis, konseptual, dan yurisprudensial. Sumber hukum primer terdiri dari ketentuan konstitusional dan undang-undang, peraturan tata cara Mahkamah Konstitusi, serta putusan-putusan Mahkamah Konstitusi, khususnya Putusan No. 75/PUU-XXII/2024, sedangkan sumber sekunder mencakup literatur ilmiah mengenai formalisme prosedural, penghindaran yudisial, obscuur libel, minimalisme yudisial, dan keadilan substantif. Analisis ini menelaah alasan-alasan Mahkamah dengan menelusuri hubungan antara persyaratan prosedural yang diterapkan, dugaan kekurangan dalam permohonan, penilaian Mahkamah, dan konsekuensi prosedural yang dihasilkan. Penelitian ini menemukan bahwa pernyataan Mahkamah mengenai tidak dapat diterimanya permohonan tidak dapat secara otomatis dikategorikan sebagai penghindaran yudisial karena Mahkamah memberikan kesempatan untuk memperbaiki permohonan dan mendasarkan keputusannya pada pertimbangan prosedural. Meskipun demikian, kasus ini menunjukkan bagaimana formalisme prosedural dapat menimbulkan efek yang mirip penghindaran yudisial ketika suatu kekurangan prosedural menghentikan pemeriksaan sebelum kedudukan hukum dan substansi konstitusional dipertimbangkan. Penelitian ini mengusulkan kelayakan substantif sebagai kerangka kerja untuk merekonstruksi penerapan obscuur libel melalui lima pertimbangan: kejelasan formal, identifikasi konstitusional, esensialitas, korektabilitas, dan proporsionalitas. Kerangka kerja ini bertujuan untuk menjaga kepastian prosedural sekaligus mencegah cacat yang tidak esensial atau dapat diperbaiki menghalangi secara tidak perlu pengadilan konstitusional substantif.

Keywords: procedural formalism; judicial avoidance; *obscuur libel*; constitutional justice; substantive admissibility.

INTRODUCTION

The Constitutional Court of the Republic of Indonesia occupies a central position in the constitutional system as an institution entrusted with safeguarding constitutional supremacy and reviewing the constitutionality of laws (Arifien, Maulana, and Candra 2025). Through its judicial review authority, the Court provides a constitutional forum through which citizens may challenge statutory provisions alleged to infringe constitutional rights (Collins 2019). However, access to constitutional adjudication is not determined solely by the existence of judicial review jurisdiction. It is also shaped by procedural requirements governing how a petition must be formulated, particularly requirements concerning the clarity and consistency of the *posita* and *petitum*. Procedural law therefore performs an

important function in ensuring that constitutional disputes can be identified and adjudicated within a structured judicial process (Pratama and Firdaus 2025).

Procedural requirements, however, raise a recurring tension between procedural certainty and substantive constitutional protection. A petition that fails to satisfy formal requirements may be declared inadmissible or otherwise prevented from reaching substantive examination (Andrianysah 2024). Such a consequence is not necessarily problematic because procedural rules are necessary to maintain legal certainty, judicial efficiency, and the proper administration of constitutional adjudication. The legal issue arises when a procedural defect becomes the decisive basis for terminating a petition even though the constitutional issue raised by the petitioner may remain identifiable (P. S. H. Konstitusi, n.d.). In such circumstances, the application of procedural formalism requires further examination to determine whether the procedural requirement continues to serve its adjudicative function or instead operates as an excessive barrier to substantive constitutional review.

This tension is particularly relevant to the application of the concept of *obscuur libel*, which refers to a lack of clarity in a claim or petition. In the context of constitutional adjudication, clarity is important because the Court must be able to determine the challenged statutory norm, the constitutional provisions used as the constitutional benchmark, the alleged constitutional injury, and the relief sought by the petitioner (M. Konstitusi 2010). Nevertheless, the use of *obscuur libel* in constitutional proceedings cannot simply be equated with its operation in ordinary civil litigation (Budahu 2024). A constitutional petition has a distinct object and function because the proceeding concerns the constitutionality of statutory norms and may have implications beyond the immediate interests of the petitioner (Rafi Nuh Aqmal et al. 2023). Consequently, the application of a clarity requirement in constitutional adjudication requires an assessment of whether a procedural deficiency genuinely prevents the Court from identifying and adjudicating the constitutional question.

Constitutional Court Decision No. 75/PUU-XXII/2024 provides a concrete context for examining this issue. In the decision, the Court first affirmed its authority to examine the petition. During the preliminary proceedings, the Court provided directions concerning deficiencies in the petition and afforded the petitioner an opportunity to make corrections (Andrianysah 2024). The petitioner subsequently submitted an amended petition and was also given an opportunity to provide a renvoi. Nevertheless, the Court ultimately considered the petition unclear, particularly in relation to the formulation of the *petitum*. The Court found that the formulation did not sufficiently state the relief sought and did not contain the formulation required under the applicable procedural guidelines. As a consequence, the Court did not proceed to examine the petitioner's legal standing and the substance of the constitutional petition.

The procedural reasoning in Decision No. 75/PUU-XXII/2024 should not, however, be immediately characterized as judicial avoidance. The Court's provision of opportunities to correct the petition demonstrates that procedural deficiencies were not treated as automatically fatal from the outset. This distinction is important because a procedural

dismissal and judicial avoidance are conceptually different. A court may legitimately terminate a proceeding because a legally significant procedural requirement has not been satisfied. Judicial avoidance, by contrast, concerns a situation in which a court's reasoning or choice of adjudicative ground has the effect of avoiding engagement with a constitutional issue that otherwise falls within its adjudicative authority (Ambarsari 2022). Therefore, the central question is not simply whether the Court relied on procedural grounds, but whether the particular procedural defect was sufficiently essential to justify terminating the opportunity for substantive constitutional examination.

This distinction also provides a more precise analytical framework for understanding procedural formalism in constitutional adjudication. Procedural formalism becomes constitutionally significant when procedural requirements are treated as ends in themselves rather than as instruments supporting the effective adjudication of constitutional claims. In this context, the concept of judicial avoidance can be used not as an automatic label for procedural dismissal, but as an analytical question concerning the relationship between the procedural ground relied upon by the Court and the constitutional substance left unexamined (Jiménez Ramírez 2024). The analysis therefore requires an examination of the Court's reasoning, the nature of the procedural defect, the possibility of correcting the defect, and the consequences of terminating the petition.

The theoretical framework of this study is constructed through Cass Sunstein's concept of judicial minimalism and Ronald Dworkin's theory of law as integrity. Sunstein's judicial minimalism emphasizes judicial caution, narrow decision-making, and institutional sensitivity in constitutional adjudication. Such restraint does not necessarily constitute avoidance because judicial limitation may serve legitimate institutional purposes (Sunstein 2001). The analytical problem emerges when procedural caution prevents meaningful engagement with an identifiable constitutional issue without sufficient justification. Dworkin's law as integrity, meanwhile, requires legal decision-making to be understood within a coherent framework of legal principles rather than through isolated technical rules. Applied to procedural adjudication, this perspective requires procedural requirements to be interpreted consistently with the broader constitutional commitment to rights protection and the integrity of the legal system (Kurnia, Darumurti, and Moonik 2025). The combination of these perspectives allows the study to distinguish legitimate procedural discipline from procedural reasoning that may function as a means of avoiding substantive constitutional adjudication.

Existing scholarship has discussed judicial avoidance, procedural formalism, access to constitutional justice, and the use of *obscuur libel* in separate analytical contexts. Research on judicial avoidance generally focuses on the relationship between judicial decision-making and institutional considerations, while studies concerning procedural formalism tend to examine the technical requirements governing judicial proceedings. Similarly, discussions of *obscuur libel* have primarily concerned the clarity of claims and petitions as a procedural matter (Delaney 2016). The existing literature therefore leaves room for a more integrated analysis

of how the application of procedural clarity requirements may affect the boundary between procedural adjudication and substantive constitutional review. The present study addresses this gap by examining *obscuur libel* not merely as a technical requirement, but as a procedural mechanism whose application may determine whether a constitutional claim reaches substantive adjudication.

The novelty of this study lies in the formulation of a substantive admissibility approach as a means of reconstructing the application of *obscuur libel* in constitutional adjudication. This approach does not seek to eliminate procedural requirements or disregard the need for clarity. Instead, it proposes that procedural defects should be assessed according to their substantive significance to the Court's ability to identify and adjudicate the constitutional issue. A distinction should therefore be made between essential procedural defects, which genuinely prevent constitutional adjudication, and non-essential or correctable defects, which may be remedied without altering the substance of the constitutional claim. This distinction is supplemented by an assessment of proportionality between the procedural deficiency and the consequence of terminating constitutional review.

Based on this background, the study addresses two principal questions. First, how should the application of *obscuur libel* in Constitutional Court Decision No. 75/PUU-XXII/2024 be understood in relation to procedural formalism and the concept of judicial avoidance? Second, how can the *obscuur libel* doctrine be reconstructed through a substantive admissibility approach to balance procedural accuracy and substantive constitutional justice? By answering these questions, this study seeks to develop a procedural framework that preserves the importance of formal requirements while preventing procedural rules from becoming disproportionate obstacles to the examination of constitutionally significant claims.

RESEARCH METHOD

This study employs normative legal research to examine the normative relationship between procedural formalism, the application of the *obscuur libel* doctrine, judicial avoidance, and access to constitutional justice in Indonesian constitutional adjudication (Roux 2018). The research focuses particularly on Constitutional Court Decision No. 75/PUU-XXII/2024 as the primary case under examination. The study uses three complementary approaches: the statutory approach, the conceptual approach, and the case approach. The statutory approach is used to examine the legal framework governing constitutional review and the procedural requirements applicable before the Constitutional Court. The conceptual approach is employed to clarify the concepts of procedural formalism, obscuur libel, judicial avoidance, judicial minimalism, law as integrity, and substantive justice. Meanwhile, the case approach is used to examine the Court's reasoning and the legal consequences of its procedural determination in Decision No. 75/PUU-XXII/2024.

The legal materials consist of primary and secondary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, legislation governing the Constitutional Court and constitutional review, relevant Constitutional Court

procedural regulations, and Constitutional Court decisions, particularly Decision No. 75/PUU-XXII/2024. Secondary legal materials consist of scholarly books, peer-reviewed journal articles, legal doctrines, and previous studies concerning constitutional adjudication, procedural formalism, judicial avoidance, obscuur libel, access to constitutional justice, and substantive justice. These materials are selected based on their relevance to the research questions and their capacity to explain both the normative framework and the theoretical dimensions of the issue. Tertiary legal materials may be used only to clarify legal terminology and concepts where necessary.

The collection of legal materials is conducted through library research by identifying, collecting, and examining relevant legislation, Constitutional Court decisions, academic literature, and scholarly publications. The materials are subsequently classified according to their function in the analysis: normative materials are used to determine the applicable procedural framework; the Constitutional Court's decision is examined to reconstruct the sequence of procedural reasoning and its legal consequences; while scholarly literature is used to develop the conceptual and theoretical framework. The analysis is conducted qualitatively and interpretively through an examination of the ratio decidendi of Decision No. 75/PUU-XXII/2024. The analysis traces the relationship between the procedural requirement applied by the Court, the alleged defect in the petition, the Court's assessment of that defect, and the consequence of terminating further examination of the petition. This analytical sequence is used to distinguish a legitimate procedural dismissal from a situation that may indicate judicial avoidance, rather than presuming judicial avoidance solely from the fact that the Court did not reach the merits.

The theoretical analysis applies Cass Sunstein's concept of judicial minimalism and Ronald Dworkin's theory of law as integrity as analytical lenses rather than as independent objects of study. Sunstein's framework is used to examine whether the Court's limited engagement with the constitutional issue can be understood as a legitimate form of judicial restraint or whether procedural reasoning functions to avoid substantive constitutional questions. Dworkin's theory is used to assess whether the application of procedural requirements remains coherent with the broader principles underlying constitutional adjudication, particularly the protection of constitutional rights and meaningful access to constitutional justice. These theoretical perspectives are then connected to the case analysis to determine whether the procedural consequence imposed by the Court is proportionate to the procedural defect identified in the petition. Finally, the research develops the concept of substantive admissibility as a proposed reconstruction of the application of *obscuur libel* in constitutional adjudication. The reconstruction is conducted by testing the procedural defect through five analytical considerations: whether the defect concerns an essential element of the petition, whether the constitutional issue remains identifiable despite the defect, whether the defect is reasonably correctable, and whether termination of substantive examination is proportionate to the procedural deficiency. Through this method, the research does not reject procedural requirements but seeks to determine the point at which procedural accuracy

should operate as an instrument supporting constitutional adjudication rather than as an independent barrier to substantive examination.

RESULT AND DISCUSSION

Procedural Formalism and the Analytical Boundary of Judicial Avoidance

Procedural law occupies an important position in constitutional adjudication because it provides the institutional framework through which constitutional claims are submitted, examined, and decided (Muhammad Naufal et al. 2025). Procedural requirements are therefore not merely technical instruments but also serve to ensure that constitutional disputes can be adjudicated in an orderly, predictable, and legally accountable manner. In constitutional review, requirements concerning the identity of the challenged norm, the constitutional provisions used as a basis for review, the constitutional injury alleged by the petitioner, the legal reasoning connecting the challenged norm with the Constitution, and the relief sought through the *petitum* perform an important adjudicative function (Riyadi et al. 2023). Without a sufficiently intelligible petition, the Court may encounter difficulties in determining the scope of the dispute and the form of relief that can legitimately be granted.

The existence of procedural requirements, however, does not by itself establish procedural formalism. Procedural formalism arises when compliance with procedural requirements becomes the dominant consideration in adjudication to the extent that the procedural rule is treated as an end in itself rather than as an instrument supporting the judicial function (Shcherbaniuk and Bohdanevych 2024). The distinction is important because constitutional adjudication differs from ordinary private litigation. A constitutional petition does not merely concern the private interests of the parties but may concern the constitutionality and continued legal effect of statutory norms applicable generally (Claudistya Fioretty Tokan, Azizah Zaskiyah 2025). Consequently, the Court's procedural assessment potentially determines whether a constitutional question will receive substantive judicial consideration.

This distinction also provides the analytical boundary between legitimate procedural dismissal and judicial avoidance. A court cannot be characterized as engaging in judicial avoidance merely because it decides a case on procedural grounds (Ramadhan, Falah Ridhowicaksono, and Sandra 2025). Procedural dismissal may be legitimate where the defect makes adjudication impossible, where the petitioner has failed to satisfy an essential procedural requirement, or where the Court lacks a legally sufficient basis to determine the requested relief (von Bernstorff et al. 2021). Judicial avoidance, by contrast, becomes analytically relevant when procedural reasoning functions as a means of terminating adjudication of a constitutional question that could otherwise be judicially examined, particularly where the procedural defect does not genuinely prevent the Court from identifying and resolving the constitutional issue (Ulhusna 2026).

This distinction is consistent with the idea of judicial minimalism developed by Cass Sunstein. Judicial minimalism does not necessarily require a court to avoid deciding difficult

constitutional questions (Sitabuana, Nagara, and Sanjaya 2026). Rather, it describes a mode of adjudication characterized by narrowness and incompleteness, under which courts may decide only what is necessary to resolve the dispute while avoiding unnecessarily broad constitutional pronouncements (Sunstein 2007). The concept therefore cannot automatically be equated with judicial avoidance. Judicial avoidance involves a different analytical question: whether the Court's reliance on a particular procedural ground prevents substantive engagement with an issue that falls within its adjudicative authority.

From this perspective, the relevant question in examining Decision No. 75/PUU-XXII/2024 is not whether the Constitutional Court was permitted to assess the clarity of the petition. It clearly was. The more important question is whether the procedural defect identified by the Court was sufficiently essential to justify terminating the examination before the Court considered the petitioner's legal standing and constitutional arguments. This distinction prevents the analysis from assuming judicial avoidance in advance and instead makes the characterization dependent upon the relationship between the procedural defect and the substantive constitutional issue.

The same analytical boundary can be developed through Ronald Dworkin's concept of law as integrity. Law, in Dworkin's account, should be understood as a coherent practice in which legal rules and principles are interpreted consistently with the broader normative structure of the legal system (Riesthuis 2023). Applied to constitutional procedure, this perspective requires procedural requirements to be interpreted consistently with the constitutional function of judicial review (de Queirós Campos and Bedê Jr. 2023). Procedural rules remain binding, but their interpretation should also be assessed in relation to the purpose of constitutional adjudication, including the effective examination of constitutional claims and the protection of constitutional rights. Accordingly, procedural accuracy and substantive constitutional justice should not be constructed as mutually exclusive objectives. Procedural requirements provide the conditions for meaningful adjudication, while substantive adjudication provides the ultimate reason why constitutional review exists. The analytical problem therefore arises when procedural requirements are applied in a manner disproportionate to the defect identified. This tension forms the basis for examining the application of *obscuur libel* in Decision No. 75/PUU-XXII/2024.

The Legal Construction of *Obscuur Libel* in Constitutional Adjudication

The concept of *obscuur libel* traditionally refers to an unclear or vague claim that prevents the court from determining precisely what is being demanded and on what legal or factual basis the demand is made. Within procedural law, clarity is closely related to the relationship between the factual and legal grounds of a claim and the relief requested by the claimant (Ali, Krisdianti, and Puspaningrum 2024). The requirement is rational because a court cannot effectively adjudicate a dispute if the object of the claim or the relief sought cannot be determined with sufficient precision.

The concept becomes particularly significant in constitutional adjudication because the *petitum* determines the form of constitutional relief sought from the Constitutional Court. In judicial review proceedings, the petitioner may ask the Court to declare a statutory provision contrary to the Constitution, to declare a provision conditionally unconstitutional, or to provide another form of constitutionally permissible interpretation. The clarity of the *petitum* therefore determines the parameters within which the Court may formulate its judgment. Nevertheless, the transplantation of *obscuur libel* into constitutional adjudication requires caution. Constitutional proceedings are not identical to ordinary civil proceedings. In civil litigation, the court generally resolves a dispute between parties concerning private rights or obligations. Constitutional review, by contrast, examines the compatibility of statutory norms with the Constitution, and the effect of a Constitutional Court judgment may extend beyond the individual petitioner. This distinction explains why procedural clarity remains necessary but should be interpreted according to the institutional characteristics of constitutional adjudication.

The importance of this distinction can also be seen in the Constitutional Court's own reasoning in Decision No. 75/PUU-XXII/2024. The Court did not simply state that the petition was formally incomplete. It connected the requirement of clarity with the Court's ability to identify the substance of the relief requested. The Court emphasized that although the posita contained arguments concerning the conflict between the challenged norms and the 1945 Constitution, the *petitum* did not sufficiently identify what the petitioner requested the Court to decide regarding the challenged provisions. Thus, *obscuur libel* in constitutional adjudication should be understood as a doctrine concerning adjudicative intelligibility. Its function is not merely to ensure textual neatness but to ensure that the Court can identify the constitutional question, the challenged norm, and the requested constitutional consequence. The problem arises when every formal deficiency is treated as equally significant, because not every textual imperfection necessarily prevents the Court from understanding the constitutional dispute.

Obscuur Libel and the Distinctive Nature of Constitutional Adjudication

The distinctive nature of constitutional adjudication requires a more functional understanding of procedural clarity (Aziz and Baskhoro 2026). A petition may contain drafting deficiencies while still communicating a sufficiently identifiable constitutional controversy. Conversely, a petition may appear formally structured but fail to establish a meaningful connection between the challenged norm, the constitutional provision invoked, the alleged constitutional injury, and the requested relief (Andrianysah 2024). The relevant distinction is therefore not simply between a “clear” and an “unclear” petition. The more meaningful distinction is between a defect that prevents adjudication and a defect that merely reduces procedural precision (Budahu 2024). The former may justify termination because the Court lacks a workable object of adjudication. The latter may justify correction, clarification, or interpretive assessment rather than immediate termination of the substantive examination.

This distinction becomes particularly important because constitutional judgments may have erga omnes consequences. In Decision No. 75/PUU-XXII/2024, the Court expressly emphasized the importance of the phrase "*dan tidak mempunyai kekuatan hukum mengikat*" in the *petitum* . According to the Court, the phrase is significant because a Constitutional Court decision concerning the binding force of a statutory norm is not limited to the individual petitioner but operates generally. The Court's reasoning demonstrates that the requirement was not entirely formalistic in the narrow sense. There was a substantive procedural rationale: the requested relief must correspond to the legal effect of a constitutional judgment. A petition asking the Court to declare a statutory provision unconstitutional should therefore formulate the legal consequence that follows from such declaration with sufficient clarity.

At the same time, the existence of a legitimate rationale behind the procedural requirement does not end the analysis. The next question is whether failure to formulate the *petitum* according to the required formulation necessarily means that the constitutional controversy itself becomes incapable of adjudication. This is precisely where the distinction between procedural accuracy and substantive admissibility becomes relevant.

Application in Constitutional Court Decision No. 75/PUU-XXII/2024

Decision No. 75/PUU-XXII/2024 concerned a constitutional review of several provisions of Law No. 2 of 2024 concerning the Special Capital Region of Jakarta against the 1945 Constitution. The petitioner challenged, among others, provisions concerning the administrative status of municipalities and regencies in Jakarta, the position and appointment of mayors/regents, and the organization of local government. The petitioner connected the challenged provisions with constitutional provisions concerning regional autonomy and equal opportunities in government.

Table 1. Procedural Reasoning and Legal Consequences in Constitutional Court Decision No. 75/PUU-XXII/2024

Procedural Stage	Court's Reasoning/Action	Procedural Issue Identified	Legal Consequence
Jurisdiction	The Court affirmed that it had jurisdiction to examine the petition.	No jurisdictional obstacle was identified.	The Court proceeded to assess the petition before considering legal standing and the merits.
Preliminary Hearing	The Court provided directions concerning the formulation of the petition, particularly the *petitum*.	The formulation of the requested relief was considered insufficiently clear.	The Petitioner was given an opportunity to improve the petition.

Procedural Stage	Court's Reasoning/Action	Procedural Issue Identified	Legal Consequence
Revised Petition	The revised petition was received by the Court on 5 August 2024 and became the basis for further examination pursuant to the procedural framework.	Several formulations in the *petitum* remained unclear or incomplete.	The Court continued to assess whether the petition fulfilled procedural requirements.
Renvoi	The Petitioner attempted to further clarify the *petitum*.	The Court considered that the formulation still did not satisfy the required form, including the absence of the phrase "*dan tidak mempunyai kekuatan hukum mengikat.*"	The renvoi was not treated as curing the procedural defect.
Assessment of *Obscuur Libel*	The Court concluded that the *petitum* was unclear and therefore constituted an *obscuur* petition.	The requested relief was considered insufficiently precise to establish the scope and legal consequence of the requested judgment.	The petition was declared inadmissible.
Substantive Examination	The Court did not proceed to examine legal standing and the merits.	The procedural defect was treated as sufficiently fundamental to prevent further examination.	The constitutional issues raised by the Petitioner were not substantively adjudicated.

Source: from various sources

The procedural sequence of the case is particularly important for the analysis. In the preliminary hearing on 23 July 2024, the Court advised the petitioner to examine and improve the formulation of the *petitum* in accordance with Constitutional Court Regulation No. 2 of 2021 (Mahkamah Konstitusi Republik Indonesia 2021) and prevailing procedural practice. The petitioner subsequently submitted a revised petition on 5 August 2024. The revised *petitum* , however, still contained incomplete formulations in several parts, particularly in relation to the relief concerning Article 13 paragraphs (2), (3), and (4) letter a of Law No. 2 of 2024. The following day, during the preliminary hearing on 6 August 2024, the

petitioner attempted to make an additional correction or renvoi to the *petitum* . The Court acknowledged that this additional correction supplied the missing substantive formulations concerning the requested interpretation of the challenged provisions. However, the Court held that the petitioner had already exercised the right to submit a petition revision within the period provided under Article 42 paragraphs (1) and (2) of PMK No. 2 of 2021. The Court consequently treated the version submitted on 5 August 2024 as the petition that formed the basis for examination.

The Court then identified the central procedural defect. According to the Court, although the posita explained the alleged conflict between the challenged provisions and the 1945 Constitution, the *petitum* did not clearly specify the matters that the petitioner requested the Court to decide. The Court therefore characterized the *petitum* as unclear or *obscuur*. The Court further held that the additional renvoi did not cure the defect because it did not include the phrase "dan *tidak mempunyai kekuatan hukum mengikat*," which the Court considered necessary under Article 10 paragraph (2) letter d number 2 of PMK No. 2 of 2021 for a material review petition. The Court connected this requirement to the general binding effect of Constitutional Court judgments.

The consequence was decisive. Having concluded that the petition remained *obscuur*, the Court did not proceed to examine the petitioner's legal standing or the substance of the constitutional claims. The conclusion section expressly stated that the Court had jurisdiction, that the petition was unclear or vague, and that the petitioner's legal standing and merits would not be considered further. The operative part subsequently declared the petition inadmissible. This procedural sequence is important because it prevents an overly simplistic characterization of the decision. The Court did not terminate the petition without giving the petitioner any opportunity to correct it. The Court provided procedural guidance, accepted a revised petition, and even allowed an additional renvoi during the 6 August hearing. Therefore, the critical analytical issue is not the existence of procedural safeguards, but the threshold used to determine when the remaining defect was sufficiently serious to terminate further examination.

Procedural Formalism, Judicial Avoidance, and Access to Constitutional Justice.

The preceding analysis establishes that the Constitutional Court's reliance on procedural requirements in Decision No. 75/PUU-XXII/2024 cannot automatically be classified as judicial avoidance. The Court possessed authority to determine the clarity of the petition, expressly relied on PMK No. 2 of 2021, and provided the petitioner with opportunities to improve the petition. These circumstances indicate that the Court's procedural reasoning had a recognizable legal basis. However, the absence of an automatic conclusion of judicial avoidance does not eliminate the need to examine whether the procedural reasoning functioned as a barrier to substantive adjudication. The appropriate test is whether the procedural defect was sufficiently essential to make substantive examination

impossible or whether the constitutional issue remained sufficiently identifiable despite the defect.

The first relevant indicator is constitutional identifiability. In the petition, the challenged provisions were identified, including Article 1 number 9, Article 6 paragraph (1), and Article 13 paragraphs (2), (3), and (4) letter a of Law No. 2 of 2024 (Repuplik Indonesia 2024). The petitioner also identified constitutional provisions relied upon, particularly Article 18 paragraphs (2) and (4) and Article 28D paragraph (3) of the 1945 Constitution (BAPPENAS RI 1945). The *posita* further articulated the alleged constitutional problem, namely the relationship between the administrative status of Jakarta's municipalities/regencies, the appointment of mayors/regents, regional autonomy, and the petitioner's asserted opportunity to participate in government. This indicates that the petition did not lack an identifiable constitutional object altogether. The principal deficiency identified by the Court concerned the formulation of the requested relief. In other words, the problem was concentrated primarily in the formulation of the consequence sought, rather than in the complete absence of a constitutional issue.

The second indicator is correctability. The procedural history demonstrates that the deficiency was, at least in part, capable of being corrected. Indeed, the petitioner submitted a revised *petitum* , and the subsequent renvoi supplied more specific formulations for the relief requested. The Court nevertheless declined to treat the additional correction as part of the operative petition because of the procedural limitation governing the timing and number of revisions. This point creates the central tension in the case. From the perspective of procedural certainty, limiting repeated amendments protects the orderly conduct of proceedings and prevents an indefinite process of petition revision. From the perspective of substantive constitutional adjudication, however, the fact that the defect could be articulated and corrected raises the question whether terminating the entire petition was proportionate to the remaining procedural deficiency.

The third indicator concerns the relationship between the defect and the judicial function. The Court considered the absence of the phrase "dan *tidak mempunyai kekuatan hukum mengikat*" significant because the judgment of unconstitutionality has general legal consequences. This reasoning is institutionally understandable. The Court must know precisely what legal consequence it is being asked to impose. Yet the existence of that requirement does not necessarily mean that every failure to reproduce the formula in precisely the expected form destroys the intelligibility of the underlying constitutional dispute. Here, Sunstein's framework helps distinguish judicial minimalism from avoidance. The Court did not formulate a broad constitutional doctrine because the petition was terminated at the procedural stage. A narrow procedural resolution can be institutionally justified where the procedural deficiency genuinely prevents the Court from deciding the matter (Siegel 2005). However, if the procedural ground operates despite the continued identifiability of the constitutional issue and the possibility of correcting the defect, the decision may warrant

characterization as avoidance-like in effect, even if judicial avoidance cannot be established as the Court's subjective motive.

This distinction is essential. The article does not claim that the Court deliberately sought to avoid a politically sensitive or difficult constitutional issue. There is no sufficient basis to infer such subjective motivation from the decision alone. Instead, the analysis concerns the objective adjudicative effect of the procedural reasoning: the constitutional issue was not examined because the petition was terminated on the basis of the *obscuur* defect. From the perspective of Dworkin's law as integrity, the question becomes whether the procedural rule and its application remain coherent with the constitutional function of judicial review. If procedure is interpreted solely as a formal barrier, procedural certainty may be achieved at the expense of the substantive function of constitutional adjudication (Allan 2023). Conversely, if procedural requirements are interpreted in a manner that preserves clarity while allowing an identifiable constitutional question to proceed, procedural integrity and substantive justice may operate together. Therefore, Decision No. 75/PUU-XXII/2024 is better understood not as conclusive proof that the Constitutional Court engaged in judicial avoidance, but as a case that reveals the boundary at which procedural formalism can produce an avoidance effect. That boundary is precisely where the reconstruction of *obscuur libel* becomes necessary.

Reconstructing *Obscuur libel* through Substantive Admissibility

The preceding analysis demonstrates that the principal problem is not whether procedural requirements should be eliminated. Such an approach would undermine legal certainty and the Court's ability to conduct constitutional adjudication effectively. The problem instead lies in determining the threshold at which a procedural defect becomes sufficiently serious to justify terminating substantive examination. This article proposes the concept of substantive admissibility as a framework for addressing that problem. Substantive admissibility does not mean that the Court ignores procedural requirements. Rather, it requires the Court to assess procedural defects according to their actual consequences for the Court's ability to identify and adjudicate the constitutional controversy.

Under this approach, *obscuur libel* should function primarily as a clarification doctrine, rather than an automatic exclusionary doctrine. The Court should determine whether the petition's ambiguity genuinely prevents identification of the constitutional issue and the relief that can legally be considered. Where the constitutional controversy remains identifiable and the defect does not materially obstruct adjudication, the procedural response should prioritize correction or clarification over termination.

1. Essential and Non-Essential Procedural Defects

The first element of substantive admissibility is the distinction between essential and non-essential procedural defects. An essential defect is a defect that prevents the Court from determining the object of review, the constitutional norm allegedly violated, the statutory provision challenged, or the legal consequence that can meaningfully be adjudicated. For

example, where a petition fails to identify which, statutory provision is being challenged or fails to establish any connection between the challenged norm and a constitutional provision, the Court may reasonably conclude that substantive adjudication cannot proceed.

A non-essential defect, by contrast, concerns a deficiency in formulation, terminology, structure, or drafting that does not prevent the Court from understanding the essential constitutional controversy. Such defects may still need correction, but they do not necessarily justify termination of the case. Applied to Decision No. 75/PUU-XXII/2024, the distinction is significant. The petition identified the challenged statutory provisions and the constitutional provisions relied upon. The *posita* also articulated the petitioner's constitutional argument concerning regional autonomy, the position of mayors/regents, and the right to participate in government.

The principal problem concerned the formulation of the *petitum* , particularly the absence of the required formulation concerning the legal effect of the challenged norms. The Court treated this deficiency as sufficient to render the petition obscuur. The substantive admissibility framework would not deny the importance of that requirement. Instead, it would ask whether the defect made the constitutional dispute itself incapable of adjudication. If the answer is no, the Court should consider whether the deficiency can be cured through clarification without altering the substantive character of the petition. This distinction creates a more precise relationship between procedural law and substantive justice. Procedure remains binding, but the consequence of procedural non-compliance becomes dependent upon the functional significance of the defect.

2. Proportionality in Procedural Dismissal

The second element is proportionality. A procedural sanction should correspond to the seriousness and consequences of the procedural defect. In constitutional adjudication, proportionality is particularly important because dismissal at the procedural stage prevents the Court from determining whether the challenged statutory norm is constitutionally valid. The consequence is therefore significantly greater than merely requiring the petitioner to correct a textual error (Asa et al. 2026). A proportionality analysis can be constructed through three questions. First, does the procedural requirement pursue a legitimate adjudicative objective? In the case of a clear *petitum*, the objective is legitimate because the Court must know the legal consequence being requested. Second, is termination necessary to achieve that objective? If the defect can be corrected through clarification without compromising procedural order, termination may not always be necessary. Third, is termination proportionate to the procedural harm? This requires consideration of whether the defect genuinely obstructs constitutional adjudication or merely reflects incomplete drafting.

In Decision No. 75/PUU-XXII/2024, the Court's reasoning demonstrates that the clarity requirement served a legitimate purpose. The Court emphasized that the requested formulation must make clear the legal effect sought from the challenged norms, especially because a Constitutional Court judgment has general legal effect. Nevertheless, the proportionality question remains open because the petitioner had already articulated the

constitutional object and requested specific interpretive consequences in the revised and renvoi formulations. The issue therefore concerns the legal effect of the procedural limitation on further correction rather than the total absence of a constitutional claim.

The proposed framework accordingly does not conclude that the Court's dismissal was legally impermissible. Instead, it identifies a normative question that should guide future constitutional procedure: whether the procedural consequence imposed is proportionate to the defect after considering the identifiability and correctability of the constitutional claim.

3. The Substantive Admissibility Model

Based on the preceding analysis, substantive admissibility can be formulated through five sequential considerations: First, Formal Clarity. The Court determines whether the petition contains the basic procedural elements necessary for examination, including the challenged norm, constitutional provisions, reasoning, and requested relief. Second, Constitutional Identifiability. The Court determines whether the constitutional issue can still be identified from the petition as a whole. Assessment should not be limited to the *petitum* in isolation but should consider its relationship with the posita and the constitutional norms invoked. Third, Essentiality Test. The Court determines whether the identified procedural defect prevents substantive adjudication or merely reduces the precision of the petition. Fourth, Correctability Test. The Court assesses whether the defect can reasonably be corrected without transforming the constitutional substance or changing the object of review. Fifth, Proportionality Test. The Court determines whether termination of the petition is proportionate to the procedural defect after considering the constitutional issue, the availability of correction, and the consequences of terminating substantive examination.

If the defect passes these stages and genuinely prevents adjudication, dismissal on procedural grounds remains justified. Conversely, if the constitutional issue remains identifiable, the defect is non-essential, and correction is possible, the procedural response should prioritize clarification rather than exclusion. The model therefore does not eliminate *obscuur libel*. It reconstructs its function. Instead of operating primarily as a gatekeeping mechanism, *obscuur libel* should operate as a mechanism for ensuring that constitutional petitions are sufficiently intelligible to be adjudicated. The distinction is important because procedural discipline and substantive justice do not necessarily conflict. Procedural discipline becomes problematic only when the sanction imposed is disconnected from the actual capacity of the defect to obstruct adjudication.

Table 2. The Substantive Admissibility Model for the Application of *Obscuur libel* in Constitutional Adjudication

Analytical Stage	Key Question	Assessment	Procedural Implication
Formal Clarity	Is the petition sufficiently structured to allow the Court to	The Court examines the clarity of the *posita* and *petitum* as a whole.	Minor drafting deficiencies should not automatically result in dismissal.

Analytical Stage	Key Question	Assessment	Procedural Implication
	understand the claims and relief sought?		
Constitutional Identifiability	Can the constitutional issue and the provision challenged still be identified despite the defect?	The Court determines whether the constitutional controversy remains objectively identifiable.	If the constitutional issue remains identifiable, substantive examination may remain possible.
Essentiality Test	Does the defect concern an essential element necessary for adjudication?	The defect is assessed according to its effect on the Court's ability to formulate and decide the constitutional dispute.	Only defects that materially prevent adjudication should presumptively justify dismissal.
Correctability Test	Can the defect reasonably be corrected without altering the substance of the constitutional claim?	The Court considers whether clarification, correction, or renvoi can cure the deficiency.	Correctable defects should, where procedurally feasible, be addressed through clarification rather than exclusion.
Proportionality Test	Is terminating the petition proportionate to the procedural defect?	The procedural burden is balanced against the consequence of denying further substantive examination.	Dismissal should be reserved for defects whose seriousness justifies termination of the proceedings.

Source: from various sources

The model above does not eliminate procedural requirements or reduce the importance of petition clarity. Rather, it introduces a substantive threshold for determining when procedural deficiencies should become dispositive. The central distinction is between a defect that merely affects the technical formulation of a petition and a defect that objectively prevents the Court from identifying, framing, and adjudicating the constitutional controversy. In this framework, *obscuur libel* should therefore not operate as an automatic exclusionary device. Its application should depend on whether the alleged ambiguity has a material effect on adjudication. Where the constitutional issue remains identifiable and the defect is reasonably correctable, procedural clarification is more consistent with the function of constitutional adjudication. Conversely, where the defect prevents the Court from determining the object, scope, or legal consequence of the requested constitutional relief, dismissal may be justified.

4. Implications for Constitutional Procedural Reform

The reconstruction proposed above has implications for the development of Indonesian constitutional procedural law. First, the Constitutional Court's procedural

framework should provide clearer standards for distinguishing between defects that are essential to the adjudication of a constitutional petition and defects that can be corrected without terminating the case. Existing procedural requirements provide important guidance, but their application would benefit from a more explicit functional distinction between clarity as a prerequisite for adjudication and formal completeness as a matter of drafting precision.

Second, the correction mechanism should be understood not merely as an opportunity to repair formal deficiencies but as part of the Court's responsibility to ensure that potentially adjudicable constitutional disputes are presented in a form capable of judicial examination. Decision No. 75/PUU-XXII/2024 demonstrates that correction opportunities may exist but still leave a significant question regarding the threshold at which a remaining defect becomes fatal to the petition. The issue is therefore not simply whether a correction opportunity was provided, but whether the procedural mechanism sufficiently distinguishes between an incurable defect and a defect that remains capable of clarification.

Third, judicial guidelines concerning *obscuur libel* should emphasize the relationship between the posita and *petitum* . Constitutional petitions should be assessed holistically because the meaning of the requested relief may become clearer when read together with the constitutional arguments presented in the body of the petition. Such an approach would not authorize the Court to construct a petition on behalf of the petitioner. Rather, it would require the Court to distinguish between interpreting an already identifiable claim and creating a new claim that the petitioner never submitted.

Fourth, the substantive admissibility approach can strengthen the distinction between judicial restraint and judicial avoidance. A court may legitimately exercise restraint by deciding only what is necessary to resolve a dispute. However, restraint should not depend solely upon procedural barriers where the constitutional issue remains identifiable and adjudicable. The legitimacy of procedural dismissal should therefore be assessed through the relationship between the procedural requirement, the defect identified, and the substantive consequence of termination. Finally, the reconstruction has broader implications for the legitimacy of constitutional adjudication. The Constitutional Court's authority depends not only upon its capacity to maintain procedural order but also upon its ability to ensure that constitutional disputes are resolved through legally coherent reasoning. Dworkin's concept of law as integrity is relevant at this point because procedural rules should form part of a coherent constitutional adjudicative practice rather than operate independently from the principles that justify constitutional review itself. Similarly, Sunstein's judicial minimalism suggests that judicial restraint can be valuable where it prevents unnecessary constitutional intervention, but such restraint should not be conflated with the termination of adjudication whenever procedural imperfection exists.

Accordingly, the central implication of this study is not the abandonment of procedural formalities but their functional recalibration. The *obscuur libel* doctrine should continue to ensure clarity, precision, and legal certainty, while its application should be conditioned by the actual capacity of a procedural defect to prevent constitutional

adjudication. Through substantive admissibility, procedural accuracy and substantive justice can be positioned as complementary dimensions of constitutional adjudication rather than competing objectives.

CONCLUSION

The analysis demonstrates that the application of *obscuur libel* in Constitutional Court Decision No. 75/PUU-XXII/2024 reflects a tension between procedural formalism and the constitutional function of judicial review. The Court had affirmed its jurisdiction and provided the Petitioner with opportunities to improve the formulation of the petition, particularly the *petitum* . However, the Court ultimately considered the formulation insufficiently clear and declared the petition inadmissible without proceeding to examine legal standing and the merits. This procedural dismissal should not, by itself, be characterized as judicial avoidance, because the Court's subjective intention cannot be established merely from the procedural outcome. Nevertheless, the case demonstrates how procedural formalism may produce an avoidance-like effect when a procedural defect becomes dispositive of a constitutional dispute without further substantive examination. The distinction between legitimate procedural dismissal, judicial restraint, and judicial avoidance therefore depends on whether the procedural defect genuinely prevents the Court from identifying and adjudicating the constitutional controversy. To address this tension, this study proposes substantive admissibility as a reconstruction of the application of *obscuur libel* in constitutional adjudication. The proposed approach does not eliminate procedural requirements but subjects' procedural defects to a contextual and proportional assessment through five considerations: formal clarity, constitutional identifiability, essentiality, correctability, and proportionality. Under this framework, a procedural defect should justify dismissal when it materially prevents the Court from determining the constitutional issue or the legal consequence sought. Conversely, where the constitutional controversy remains identifiable and the defect is non-essential or reasonably correctable, procedural clarification should be preferred over termination of substantive examination. Such reconstruction positions procedural accuracy as an instrument of constitutional adjudication rather than an autonomous barrier to it. It consequently provides a framework for maintaining procedural certainty while preserving meaningful access to constitutional justice and ensuring that procedural formalism does not unnecessarily displace the substantive function of constitutional review. [*W*]

BIBLIOGRAPHY

Ali, Moh., Kinasih Amara Krisdianti, and Galuh Puspaningrum. 2024. "GUGATAN TIDAK DAPAT DITERIMA DENGAN ALASAN OBSCUUR LIBEL PADA PERBUATAN MELAWAN HUKUM (STUDI KASUS PUTUSAN NO. 67/PDT.G/2021/PN JMR)." *Semarang Law Review (SLR)* 5 (2): 162–82. https://doi.org/10.26623/slr.v5i2.10732.

Allan, T. R.S. 2023. "CONSTITUTIONALISM AT COMMON LAW: THE RULE OF LAW AND JUDICIAL REVIEW." *Cambridge Law Journal* 82 (2): 236–64. https://doi.org/10.1017/S000819732300017X.

Ambarsari, Retno. 2022. "Hukum Acara Dalam Pengujian Undang-Undang Di Indonesia." *Cerdika: Jurnal Ilmiah Indonesia* 2 (5): 607–13. https://doi.org/10.59141/cerdika.v2i5.390.

Andrianysah, Muthi'ah Maizaroh. 2024. "Strengthening Independence: Constitutional Interests As A Paradigm For Judicial Review In Indonesia." *JHP: Jurnal Hukum Peradilan* 13 (1): 33–62. https://doi.org/10.25216/jhp.13.1.2024.33-62.

Arifien, Bustanul, Hedwig A. Maulana, and Mardi Candra. 2025. "Kedudukan Mahkamah Konstitusi Dalam Mekanisme Hubungan Antar Lembaga Negara." *CENDEKIA : Jurnal Penelitian Dan Pengkajian Ilmiah* 2 (7): 1340–52. https://doi.org/10.62335/cendekia.v2i7.1563.

Asa, Simplexius, Marlyani Anita Seran, Moh Imam Gusthomi, and Abu Bakar Munir. 2026. "Judicial Gatekeeping in Electoral Justice: The Constitutional Court's Dismissal Procedure in Indonesian Regional Election Disputes." *Journal of Law and Legal Reform* 7 (3): 1667–1726. https://doi.org/10.15294/jllr.v7i3.49871.

Aziz, Fahmi, and Arie Ekawi Baskhoro. 2026. "Ajudikasi Konstitusional Dan Reformasi Peradilan : Mendefinisikan Ulang Efisiensi Struktural Dan Prosedural Mahkamah Konstitusi Republik Indonesia." *J-HUP: Jurnal Hukum Dan Pemerintahan* 1 (1): 1–16. https://ojs.gramatikal.academy/J-HUP/article/view/17.

BAPPENAS RI. 1945. "UNDANG-UNDANG DASAR NEGARA REPUBLIK INDONESIA TAHUN 1945." *Warga Dan Negara* 1945:1–166.

Bernstorff, Jochen von, Olaf Kramer, Johannes Saurer, and Stefan Thomas. 2021. "Courts as Rhetorical Actors: A Rhetorical Analysis of Judicial Conflict Avoidance." *Zeitschrift Für Ausländisches Öffentliches Recht Und Völkerrecht / Heidelberg Journal of International Law* 81 (4): 1001–32. https://doi.org/10.17104/0044-2348-2021-4-1001.

Budahu, Muhammad Abdi Sabri I. 2024. "Legal Standing Pemohon Terkait Pengajuan Judicial Review Di Mahkamah Konstitusi." *Jurnal Media Hukum* 12 (1): 10–28. https://doi.org/10.59414/jmh.v12i1.636.

Claudistya Fioretty Tokan, Azizah Zaskiyah, Maria Magdalena Ina Reko. 2025. "PERAN MAHKAMAH KONSTITUSI DALAM MENJAGA KONSTITUSIONALITAS UNDANG-UNDANG DI INDONESIA." *Jurnal Multilingual* 5 (1): 399–415. https://ejournal.penerbitjurnal.com/index.php/multilingual/article/view/1139.

Collins, Josua Satria. 2019. "Penambahan Kewenangan Constitutional Question Di Mahkamah Konstitusi Sebagai Upaya Untuk Melindungi Hak-Hak Konstitusional Warga Negara." *Jurnal Konstitusi* 15 (4): 688. https://doi.org/10.31078/jk1541.

Delaney, Erin F. 2016. "Analyzing Avoidance: Judicial Strategy in Comparative Perspective." *Duke Law Journal* 66 (1): 1–67. https://scholarship.law.duke.edu/dlj/vol66/iss1/1.

Jiménez Ramírez, Milton César. 2024. "Weak Procedural Constitutionalism. The Judicial Process as Legitimacy of Judicial Review." *ICL Journal* 18 (1): 59–76. https://doi.org/10.1515/icl-2023-0032.

Konstitusi, Mahkamah. 2010. *Hukum Acara Mahkamah Konstitusi*.

Konstitusi, P S H. n.d. "NASKAH KAJIAN GAGASAN KEWENANGAN PENGADUAN KONSTITUSIONAL DAN DESAIN KELEMBAGAANNYA DI MAHKAMAH KONSTITUSI." *S.Mkri.Id*. https://s.mkri.id/jdih/kajian_hukum/kajian_hukum_1767854582_dfe9ec962d4f04f06e72.pdf

Kurnia, Titon Slamet, Krishna D. Darumurti, and Prisilia Kornelia Moonik. 2025. "Indonesian Constitutional Court's Moral Legitimacy: A Dworkinian Rights-Based Defense." *Padjadjaran Jurnal Ilmu Hukum* 12 (1): 48–68. https://doi.org/10.22304/pjih.v12n1.a3.

Mahkamah Konstitusi Republik Indonesia. 2021. "PERATURAN MAHKAMAH KONSTITUSI NOMOR 2 TAHUN 2021."

Muhammad Naufal, Muhammad Saniy Nir 'Adlan, Fransiscus Ardiyan Bimantara, Daffa Naufal Athalah, M. Rayhan Ariya Putra, and Khanafi. 2025. "Pembuktian Dalam Hukum Acara Mahkamah Konstitusi: Mengkaji Putusan Pengujian Formil Suatu Undang-Undang." *VETERAN SOCIETY JOURNAL* 5 (1): 1–32. https://doi.org/10.33005/vsj.v5i1.184.

Pratama, Yobi Adi, and Sunny Ummul Firdaus. 2025. "Implementasi Asas Nemo Judex Idoneus In Propria Causa Terhadap Independensi Dan Imparsialitas Mahkamah Konstitusi." *Res Publica: Jurnal Hukum Kebijakan Publik* 9 (1): 20–36. https://jurnal.uns.ac.id/respublica/article/view/100832.

Queirós Campos, Gabriel Silveira de, and Américo Bedê Jr. 2023. "Integrity at Sentencing and the Issue of Judicial Discretion from a Dworkinian Perspective." *Beijing Law Review* 14 (02): 828–53. https://doi.org/10.4236/blr.2023.142045.

Rafi Nuh Aqmal, Mochammad Davanna Rizki, Ilham Ilmansyah Cinta Adinda, Mochamad Rafli Putra Hariono, Muhammad Rafly Ainur Rizky, and Muhammad Mahameru Abidin. 2023. "Tantangan Hukum Dalam Pengujian Konstitusionalitas Peraturan Perundangundangan: Pendekatan Objek, Subjek, Dan Waktu." *VETERAN SOCIETY JOURNAL* 4 (1): 39–79. https://doi.org/10.33005/vsj.v4i1.114.

Ramadhan, Pandji, Abduh Falah Ridhowicaksono, and Arki Sandra. 2025. "Keadilan Prosedural Dalam Sistem Peradilan Pidana Indonesia : Evaluasi Terhadap Praktik Hakim Dalam Menjamin Imparsialitas." *Jurnal Kajian Hukum Dan Pendidikan*

Kewarganegaraan 02 (1): 175–83. https://jurnal.globalscients.com/index.php/jkhpk.

Repuplik Indonesia. 2024. *Undang-Undang (UU) Nomor 2 Tahun 2024 Tentang Provinsi Daerah Khusus Jakarta*. Indonesia.

Riesthuis, Thomas. 2023. "The Legitimacy of Judicial Decision-Making: Towards Empirical Scrutiny of Theories of Adjudication." *Utrecht Law Review* 19 (2): 75–86. https://doi.org/10.36633/ulr.877.

Riyadi, Sugeng, Muhammad Fauzan, Idamatussilmi, and Asep Budiman. 2023. "The Urgency of Establishing Constitutional Court Procedural Law." *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6 (2): 209–23. https://doi.org/10.24090/volksgeist.v6i2.9607.

Roux, Theunis. 2018. "Indonesia's Judicial Review Regime in Comparative Perspective." *Constitutional Review* 4 (2): 188–221. https://doi.org/10.31078/consrev422.

Shcherbaniuk, Oksana, and Tetiana Bohdanevych. 2024. "The Doctrine of Excessive Formalism in the Legal Theory and Practice of the European Court of Human Rights." *Frontiers in Law* 3:15–21. https://doi.org/10.6000/2817-2302.2024.03.03.

Siegel, Neil S. 2005. "A Theory in Search of a Court, and Itself: Judicial Minimalism at the Supreme Court Bar." *Michigan Law Review*. https://repository.law.umich.edu/mlr/vol103/iss8/1/.

Sitabuana, Tundjung Herning, Airlangga Surya Nagara, and Dixon Sanjaya. 2026. "Kekuasaan Yudisial Dalam Sistem Demokrasi Konstitusional." *Jurnal Hukum & Pembangunan* 56 (1). https://doi.org/10.21143/jhp.vol56.no.1.2103.

Sunstein, Cass R. 2001. "Order Without Law." *University of Chicago Law Review* 68 (3): 757. https://doi.org/10.2307/1600401.

Sunstein, Cass R. 2007. "Incompletely Theorized Agreements in Constitutional Law." *Social Research*. https://doi.org/10.1353/sor.2007.0030.

Ulhusna, Syifaa. 2026. "Analisis Yuridis Putusan Mahkamah Konstitusi Nomor : Pengujian Materiil Undang-Undang Nomor 5 Tahun 1986 Tentang Peradilan Tata Usaha Negara." *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah* xx (xx). https://www.researchgate.net/publication/407510429