

Non-Formal Legitimacy of Constitutional Change and Public Perception in The Reform of the 1945 Constitution Through Constitutional Court Decisions

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Abstract

Problematics of the legitimacy of non-formal constitutional changes through judicial decisions in the context of constitutional reform in Indonesia, with a focus on public perception as the main determinant of acceptance or rejection of these changes. Constitutional changes that do not go through formal procedures, carried out through the interpretation of judicial institutions, raise debates about the limits of institutional authority and the integrity of basic norms in the legal system. The purpose of the study was to evaluate how public perception affects the legitimacy of non-formal constitutional change through constitutional court decisions. This research uses a juridical-normative approach with the support of qualitative data analysed descriptively and evaluatively on several Constitutional Court decisions that are considered to contain elements of changes in constitutional norms. The novelty of this research lies in emphasizing the analysis of the relationship between public perception, trust in judicial institutions, and the direction of constitutional reform. The results show that without public support, constitutional change through non-formal channels risks delegitimization, and has the potential to create a crisis of confidence in constitutional institutions. This research contributes to promoting transparency, participation and accountability in the practice of judicial-based constitutional reform.

Keywords: *constitutional change; judicial; legitimacy; public perception; re-form.*

1. INTRODUCTION

Amendment of the 1945 Constitution is a process that not only contains legal-procedural aspects as stipulated in Article 37 of the 1945 Constitution, but also involves the dynamics of constitutional practices that develop through non-formal mechanisms, such as decisions of the Constitutional Court (MK).¹ In some cases, the Constitutional Court through its authority to interpret the Constitution has established new norms that have a direct impact on the constitutional order, although not through the formal amendment route.² This phenomenon is known as non-formal constitutional change which raises debates about the limits of judicial authority and the legitimacy of changes to basic law.

In a constitutional democracy, legitimacy is not only determined by legal procedures, but also by public acceptance of the decisions of state institutions. Public perception of strategic constitutional decisions, such as Constitutional Court Decision No. 90/PUU-XXI/2023 regarding , reflects the level of public trust in the integrity and neutrality

¹ Dian Agung Wicaksono and Faiz Rahman, "Influencing or Intervention? Impact of Constitutional Court Decisions on the Supreme Court in Indonesia," *Constitutional Review* 8, no. 2 (December 1, 2022), <https://doi.org/10.31078/CONSREV823>.

² Simon Butt, "Constitutional Court Decisions on the Judicial Independence of Other Indonesian Courts," *Constitutional Review* 9, no. 2 (2023): 247–75, <https://doi.org/10.31078/consrev922>.

of the Constitutional Court.³ Thus, in a constitutional democracy, the legitimacy of the Court depends not only on valid legal procedures, but also on public perceptions of the fairness and independence of its decisions. When the public feels that strategic decisions such as these are politically motivated, trust in constitutional institutions is threatened. Therefore, transparency in the decision-making process and effective public communication are important to maintain the credibility of constitutional justice institutions. If negative public perceptions are not managed appropriately, they can undermine the moral authority of the Constitutional Court in interpreting and upholding the Constitution.

In respect to the phenomenon of increasing public concern about the independence and integrity of the Constitutional Court, various studies show a direct relationship between negative perceptions and the risk of declining institutional legitimacy. Survey results show that 32 % of respondents feel that public trust in the Constitutional Court has decreased due to allegations of political intervention and corruption, thus demanding the strengthening of ethical frameworks and stricter supervisory mechanisms.⁴

In addition, the legal-political paradigm framework that although the Constitutional Court acts as the guardian of the constitution, the lack of transparency in decision-making and inconsistency in legal interpretation also triggered perceptions of impartiality, which in turn raises questions about the limits of judicial authority.⁵ If public trust continues to erode, the Court faces not only moral but also practical challenges in enforcing strategic decisions.

Research that discusses the practice of non-formal changes to the 1945 Constitution through Constitutional Court decisions has been conducted by five previous studies, namely: First, Ariel Juan F. Sinaga (2025) entitled Amendments to the 1945 Constitution of the Republic of Indonesia through the Constitutional Court Decision reveals that the Constitutional Court's jurisprudence can function as a mechanism for constitutional reform outside the formal channels of amendment, although it risks decreasing legitimacy if it is not accompanied by public accountability.⁶ Second, Kusnadi Umar and Sofyan (2023), discussing the Dynamics of the Development of the Authority of the Constitutional Court, the results showed that through strategic decisions, the Constitutional Court expanded the interpretation of the constitution by reaching issues that were previously outside its explicit authority, such as testing Perppu and postponing elections.⁷ Third, Jeis Igrisa et al (2025) discuss the Effect of the Constitutional Court on the Stability of the Constitutional System, the results of the study show that judicial expansion helps stabilize the political system, but contains risks if not balanced with strong public control.⁸ Fourth, Fajlurrahman Jurdi and Ahmad Yani (2023) discuss

³ Tri Sulistyowati and Abdurrahman Satrio, "Strengthening the Legitimacy of the Indonesian Constitutional Court Decision through Supermajority Requirement: Lesson from the South Korean Experience," *Revista de Investigações Constitucionais* 10, no. 3 (2023), <https://doi.org/10.5380/rinc.v10i3.89341>.

⁴ Dewi Sulastri et al., "Institutional Integrity and Challenges in the Indonesian Constitutional Court Institution," *Journal of Legal Media* 32, no. 1 (2025): 40–58, <https://doi.org/10.18196/jmh.v32i1.24100>.

⁵ Mirza Satria Buana, "Legal-Political Paradigm of the Indonesian Constitutional Court: Defending a Principled Instrumentalist Court," *Constitutional Review* 6, no. 1 (2020): 36–66, <https://doi.org/10.31078/consrev612>.

⁶ Ariel Juan F. Sinaga, "Amendments to the 1945 Constitution through Constitutional Court Decisions," *Journal of Humanities and Political Law* 6, no. 2 (2025), <https://doi.org/https://doi.org/10.55923/jihhp.v6i2.3853>.

⁷ Kusandi Umar and Sofyan, "The Dynamics of the Development of the Authority of the Constitutional Court," *Journal of Al Tasyri'iyah* 3, no. 1 (2023): 1-13.

⁸ Jeis Igrisa, Nurvia Usman, and Roy Marthen Moonti, "Pengaruh Mahkamah Konstitusi Terhadap Stabilitas Sistem Ketatanegaraan Indonesia," *Jurnal Hukum, Administrasi Publik Dan Negara* 2, no. 1 (2025): 150–60, <https://>

the Legitimacy of Non-Formal Constitutional Reforms: Normative Frameworks and Judicial Boundaries highlights the importance of the principle of checks and balances in justifying legal innovation by the Constitutional Court.⁹ Fifth, Naufaldi Hidayat and Oktari (2023) in research on the Dialectics of Post-Reformation Constitutional Change Practices, found that the formation of constitutional habits through the interpretation of the Constitutional Court is a new constitutional practice that needs to be placed in the sociological context of Indonesian society.¹⁰

The five previous researchers found that the Constitutional Court plays a strategic role in shaping new constitutional norms through decisions, which basically leads to non-formal constitutional changes. However, the approach of each researcher still tends to focus on legal-formal aspects, the expansion of judicial interpretation, or the stability of the constitutional system, without giving explicit emphasis to public perception as a key variable of legitimacy. This shows a methodological and theoretical gap, namely the absence of a comprehensive framework that measures how people accept or reject constitutional changes through judicial decisions. Public perception is actually an essential factor in a modern constitutional democratic system because social acceptance determines the moral authority of judicial institutions. The novelty of this research lies in the integration of juridical and sociological approaches that combine institutional legitimacy theory, political jurisprudence, and empirical public perception analysis. Thus, this research seeks to offer a more holistic model of constitutional legitimacy evaluation, which relies not only on formal procedures, but also on the response and acceptance of the wider community.

This research aims to analyze how the legitimacy of non-formal constitutional change through Constitutional Court decisions is influenced by public perception in the context of the 1945 Constitutional reform. By examining the relationship between the expansion of the Constitutional Court's interpretive authority and the social acceptance of strategic decisions, it is expected to identify new parameters in measuring constitutional legitimacy. The theoretical benefit of the research is to enrich the knowledge of constitutional law through an interdisciplinary approach that links legal theory with legitimacy theory and public political behavior. Practically, this research is expected to provide policy recommendations for relevant institutions to build transparent public communication, improve judicial accountability, strengthen public trust in constitutional justice institutions in Indonesia. This research uses a descriptive qualitative method with a juridical-sociological approach, supported by document analysis of Constitutional Court decisions, and public. Perception surveys via social media represent a modern approach to understanding *constitutional legitimacy* beyond formal-legal analysis. They provide insight into how the public interprets and evaluates constitutional norms and the actions of constitutional bodies such as the Constitutional Court. In this context, legitimacy is viewed not merely as a matter of legal validity (*de jure*) but as normative and sociological acceptance (*de facto*) among citizens. As Easton (1975) and Beetham (1991) suggested, legitimacy includes (1) legality, (2)

doi.org/10.62383/hukum.v2i1.153.

⁹ Fajlurrahman Jurdi dan Ahmad Yani, "Legitimacy of Non-Formal Constitutional Reforms: Normative Frameworks and Judicial Boundaries," *Jurnal Konstitusi* 20, no. 3 (2023): 413–35.

¹⁰ Naufaldi Hidayat and Oktari, "Dialektika Praktik Perubahan Konstitusi Pasca-Reformasi," *Al Daulah: Jurnal Hukum Tata Negara* 13, no. 1 (2023): 95–112, <https://doi.org/https://doi.org/10.24252/aldaulah.v13i1.37172>.

shared normative values, and (3) public consent — all of which can be captured through perception studies. Perception surveys through social media as the main instruments in exploring constitutional legitimacy in terms of norms and public responses simultaneously.

2. ANALYSIS AND DISCUSSION

2.1. Non-Formal Constitutional Legitimacy Change

Non-formal constitutional change is the practice of changing basic norms without formal amendment procedures, such as through Constitutional Court decisions or recurring institutional practices. In constitutional law framework, the legitimacy of non-formal constitutional change refers to the changes of basic norms through judicial interpretation of the Constitutional Court, without going through a formal amendment process as stipulated in Article 37 of the 1945 Constitution. The Constitutional Court functions as the guardian of the constitution, whose interpretation can result in “*non-formal constitutional change through judicial interpretation*”.¹¹ However, to gain legitimacy, it must be tested from two dimensions: procedural legitimacy (based on constitutional authority) and substantive legitimacy (*considered on the basis of the protection of human rights and essential constitutional values*).¹² In addition, emphasis needs to be placed on in-depth interpretation, because basic norms that form new constitutional customs, if not grounded in core constitutional norms, can lose social legitimacy.¹³ Hans Kelsen stated that every legal norm derives its validity from the basic norm (*Grundnorm*), so modifications without formal procedures must still be rooted in the highest normative structure in the legal system.¹⁴ Kelsen’s theory is often contrasted with that of fellow positivist H.L.A. Hart, who proposed a “rule of recognition” instead of a *Grundnorm*. Hart’s rule of recognition is a social rule accepted by officials that defines the criteria for legal validity within a system. This differs from Kelsen’s approach, where the *Grundnorm* is a logical presupposition rather than a social fact and a successful revolution is the only way a legal system’s *Grundnorm* can be replaced, establishing a completely new legal order. Informal constitutional amendments, by contrast, operate within the existing normative structure and do not require the overthrow of the basic norm.¹⁵

The Constitutional Court must have legitimacy from the procedural (legality of authority) and substantive (substance of norms that are in line with the values of constitutionalism) sides.¹⁶ Substantive legitimacy without procedural legitimacy (refer to what?) is important considering the increasing tendency of judicial activism in constitutional courts, if not limited by the principle of legitimacy, can lead to the abuse of judicial power. Substantive legitimacy must reflect the constitutional will that lives

¹¹ Ariel Juan F. Sinaga, “Perubahan UUD NRI 1945 Melalui Putusan Mahkamah Konstitusi.”

¹² Fajlurrahman Jurdi dan Ahmad Yani, “Legitimacy of Non-Formal Constitutional Reforms: Normative Frameworks and Judicial Boundaries.”

¹³ Naufaldi Hidayat and Oktari, “Dialektika Praktik Perubahan Konstitusi Pasca-Reformasi.”

¹⁴ Hans Kelsen, *General Theory of Law and State* (Harvard University Press, 1945).

¹⁵ Kelsen, *General Theory of Law and State* (1945). See also Kelsen, *Pure Theory of Law* 2d ed. (1967) and Kelsen, Professor Stone and the Pure Theory of Law (1965) 17 *Stan.L.Rev.* 1128. Where possible I shall use the expression “Grundnorm” rather than “Basic Norm”.

¹⁶ Fajlurrahman Jurdi dan Ahmad Yani, “Legitimacy of Non-Formal Constitutional Reforms and Restrictions on Constitutionalism,” *Jurnal Konstitusi* 20, no. 2 (2023): 238–56, <https://doi.org/10.31078/jk2024>.

in society and is in line with the principles of constitutional democracy,¹⁷ and judicial constitutional changes must be subject to the basic principles of the constitution (basic structure) so as not to undermine the spirit of democracy and the rule of law. In this context, the role of the Constitutional Court is important to ensure that changes do not deviate from the principles of the rule of law and the protection of human rights.

This is an accurate and widely accepted principle in constitutional law. Judicial review of constitutional amendments is often limited because there are fundamental constitutional principles that are considered unchangeable or “unamendable”. Context for judicial review of constitutional amendments:¹⁸

- **Judicial activism in interpretation:** While constitutional courts engage in judicial activism by interpreting the constitution and laws, this power is not unlimited. The court's primary role is to interpret and apply the constitution, not to replace its fundamental principles.
- **Protection of fundamental principles:** In many countries, constitutional review of amendments is a crucial safeguard for constitutional identity and democracy. It prevents amendments from undermining fundamental principles, such as democracy, human rights, and the rule of law.
- **Preventing the abolition of democracy:** Constitutional entrenchment clauses can be seen as a form of “militant democracy,” aimed at preventing the abolition of democracy by democratic means. These clauses are designed to protect the core principles of a constitutional state.

Judicial constitutional changes cannot be applied uniformly to the substance of the constitution, as certain provisions may be amended while others are immutable.

Constitutional substance that can be amended generally covers structural aspects of statehood, institutional procedural and technical arrangements relating to the operation of government.¹⁹ Amend Indonesia's constitution, a proposal must be submitted by at least one-third of the members of the People's Consultative Assembly (MPR). The session to discuss the amendment requires a quorum of at least two-thirds of the total MPR membership, and any final decision to amend the constitution requires the approval of a simple majority (50 % + 1) of the total MPR membership. Crucially, the form of the unitary state of the Republic of Indonesia cannot be amended.²⁰ Amendments to these sections are permissible in order to adjust to evolving social, economic and political dynamics that require flexibility, which at some point is necessary so that the constitution does not become a static instrument that stifles innovation in governance. Amendments to provisions concerning the structure of state institutions, the tenure of public officials, or the scope of administrative authority are considered acceptable, provided they are carried out through lawful and democratic procedures.

The deliberative democracy in constitutional democracy requires room for change to respond to the legitimate will of the people. The amendment mechanism available in many modern constitutions is a way to strengthen the formal legitimacy of the changes

¹⁷ Tom Ginsburg and Aziz Z Huq, *How to Save a Constitutional Democracy* (University of Chicago Press 2018, 2018).

¹⁸ Barak, Aharon. 2011. Unconstitutional constitutional amendments. *Israel Law Review* ٣٤٢-٣٢١ : (٣) ٤٤.

¹⁹ Mahkamah Konstitusi, *The 1945 constitution of The republic of Indonesia Law Of the republic of Indonesia Concerning the constitutional court*, 2015, <https://www.mkri.id/public/content/infoumum/regulation/pdf/uud45%20eng.pdf>

²⁰ Mahkamah Konstitusi

made. Deliberative democracy suggests that political decisions gain legitimacy not merely from a vote but through a process of reasoned public debate among free and equal citizens. A constitution's amendment mechanism provides a structured, formal process for this deliberation to occur, ensuring changes reflect a broad and considered consensus rather than narrow interests.²¹

On the other hand, there are constitutional substances that are considered immutable because they address basic principles or fundamental values of the constitutional system. Clauses such as the form of state, popular sovereignty, and the principle of the rule of law fall into the category of eternity clauses that explicitly or implicitly cannot be amended, as the impact of unconstitutional amendments emerged as a theoretical response to the threat of changes that undermine the basic structure of the constitution²². In many countries, this prohibition aims to protect the foundations of democracy from potential institutional weakening by majority rule. Basic norms such as the independence of the judiciary, respect for human rights and the supremacy of the constitution are existential requirements for the survival of democratic states.²³ In this context, the limits of constitutional change are not only determined by the normative text, but also by moral principles and the history of the state itself. Changes to the substance not only violate formal law, but also jeopardize the spirit of constitutionalism.²⁴

The role of the people can increase legitimacy, transparency, and responsibility and is expected to bring about an accommodative changes to the substance of the constitution that can be changed generally go through formal procedures that have been determined in the constitution itself, such as amendments by parliament with a certain majority support requirement or through a popular referendum. These procedures are designed to ensure that changes are made legally, transparently and participatively. In practice, constitutional change is carried out through a legislative process with a multilevel mechanism, such as the submission of amendment proposals, discussion by special committees, and ratification through consensus or super-majority voting.²⁵ Modern constitution is a set of fundamental rules that govern a state, often including a codified, written document that establishes institutions, protects individual rights, and defines the relationship between the government and the people. Key features often include principles like the rule of law, the separation of powers, representative government, and, increasingly, constitutional review by courts to protect social and individual rights.

The unalterable substance of the constitution known as eternity clauses is governed by procedures that explicitly prohibit any form of amendment to certain basic principles, such as the form of state, the principle of popular sovereignty, human rights. These clauses are not merely symbolic, but have binding legal force to maintain the identity of the constitution. The procedure is not only to formally reject the amendment, but also to allow the constitutional court to invalidate the amendment if it is deemed

²¹ Ercan, Selen A., and John S. Dryzek. "Conclusion: The Reach of Deliberative Democracy." *Policy Studies*, vol. 36, no. 3, 2015, pp. 359–61, doi:10.1080/01442872.2015.1065971. Accessed 5 Sep. 2025.

²² Michael Hein, "Impeding Constitutional Amendments: Why Are Entrenchment Clauses Codified in Contemporary Constitutions?," *Acta Politica* 54, no. 2 (2019): 196–224, <https://doi.org/10.1057/s41269-018-0082-4>.

²³ Neal Devins and Saikrishna Prakash, "The Indefensible Duty to Defend," *Columbia Law Review* 112, no. 3 (2012): 507–77.

²⁴ For the development of modern constitutionalism see Adams (1788); Cf. Montesquieu (1748).

²⁵ Yaniv Roznai, "Unconstitutional Constitutional Amendments—The Migration and Success of a Constitutional Idea," *American Journal of Comparative Law*, 2025.

contrary to these basic principles.²⁶ Judicial enforcement of eternity clauses is an important instrument in stemming the practice of abusive constitutionalism in various countries,²⁷ so that the procedure for changing irreversible substance does not follow the usual amendment path, but is subject to strict normative and judicial supervision. This principle is important to prevent delegitimization of the constitution by hidden authoritarianism wrapped in a formal legal framework.

Indonesia's constitution on eternity clauses.... Indonesia does not have explicit "eternity clauses" in its constitution to prevent amendment, but the concept is being debated as a safeguard against "abusive constitutionalism". Legal scholars suggest incorporating such clauses or similar doctrines, like the "basic structure doctrine," to protect core democratic principles from being altered by future constitutional amendments. Concept of eternity clauses²⁸

- An eternity clause is a provision in a constitution that is explicitly unamendable, acting as a permanent barrier to future changes.
- These clauses are designed to protect the fundamental principles and identity of the constitution, ensuring that core democratic values cannot be undermined, even through the amendment process.
- They are a tool of militant democracy, intended to defend a constitutional democracy against those who might seek to dismantle it through amendments

2.2. Public Perception of Constitutional Reform

2.2.1. Dynamics of Constitutional Reform in the Perspective of Constitutional Law

Constitutional amendment refers to formal changes to the basic text of the state through amendment or revision procedures, with the aim of adapting constitutional norms to contemporary political, social and legal dynamics. Amendment as an instrument of post-authoritarian democratic consolidation,²⁹ serves as a bridge of transition towards a more participatory and accountable constitutional system. In this context, reform is not only symbolic, but an important foundation in building constitutional governance that is adaptive to democratic values. The institutional approach as a normative advocacy tool for constitutional change,³⁰ becomes relevant when formal mechanisms and institutional actors work synergistically to encourage the legitimacy of constitutional change. Comparatively, the practice of amendment in several countries aims to explore the relevance of procedural and substantive accountability in Indonesia,³¹ so as to produce comparative learning that can strengthen the process of constitutional reform in a structured and responsible manner.

The history of constitutional amendment and reform in Indonesia began with the collapse of the New Order regime in 1998, which created the momentum for four

²⁶ David Landau, "Abusive Constitutionalism," *UC Davis Law Review* 47, no. 1 (2016): 189-260.

²⁷ Roberto Gargarella, "Constitutional Amendments: Making, Breaking, and Changing Constitutions," by Richard Albert, Oxford University Press, 2019, *Revista Derecho Del Estado*, no. 48 (2020): 371-89, <https://doi.org/10.18601/01229893.N48.13>.

²⁸ Iftikhar Hussain Bhat, "Doctrine of Basic Structure as a Constitutional Safeguard in India: Reflection in the Jurisprudence of Other Countries," *International Journal of Research in Humanities and Social Sciences* 1, 27 (2025)

²⁹ Luthfi Widagdo Eddyono, "The Constitutional Court and Consolidation of Democracy in Indonesia," *Jurnal Konstitusi* 15, no. 1 (2018): 1, <https://doi.org/10.31078/jk1511>.

³⁰ Eddyono.

³¹ Mohammad Ibrahim, "The Limits of Constitutional Amendment Powers: The Theory, Practice in Several Countries and Their Relevance in Indonesia," *Jurnal Konstitusi* 17, no. 3 (2020): 558-81, <https://doi.org/10.31078/jk1735>.

successive amendments to the 1945 Constitution between 1999 and 2002. Collectively, these amendments established a new foundation for the democratization of Indonesia's constitutional system.

This balance was apparent in the deliberative process that brought together various actors with different ideological and professional backgrounds. This process is called "*highly political*" coupled with technocratic actors,³² so that reform is not only the result of political compromise, but also driven by scientific rationality and procedural prudence.

There are two main phases in constitutional reform, namely substantive evaluation and post-amendment institutional improvement, which together form a new foundation for the democratization of Indonesia's constitutional system. The substantive evaluation phase focuses on examining the content and quality of the constitutional changes, particularly the extent to which democratic values, openness and human rights are reflected in the amended norms. This evaluation is important to test whether the changes are only procedural or have reached the normative aspects of democratic state governance. The post-amendment institutional improvement phase involves strengthening state institutions to effectively implement constitutional norms, including structuring inter-institutional relations, strengthening the role of the judiciary, and creating a healthier system of checks and balances. Changes in post-amendment institutional structures are not only administrative, but also touch on aspects of legitimacy and accountability of institutions in carrying out their constitutional functions³³.

Constitutional reform does not only revise the content of the basic law, but also reformulates the way the constitution is implemented in institutional practice. The form of reform is divided into two: substance and procedure. The core difference is that substance and procedure are an analytical framework for categorizing the *types* of changes being made, while phases are a practical roadmap for the *process* of making them. The phases of reform involve actions and events that lead to the creation and implementation of the constitutional changes, which themselves will contain both substantive and procedural elements. Both complement each other in shaping a legal order that is democratic and responsive to the demands of the times. Substance includes structural changes such as the addition of state institutions (*Constitutional Court, DPD, Judicial Commission*), limiting the presidency tenure, and strengthening human rights.³⁴ The procedural aspect is important because it determines public involvement and legitimacy of the reform process. Constitutional reform is an edition of institutional and procedural review, such as public participation mechanisms, as well as a means of evaluating the independence of constitutional courts. As such, both forms of reform form important pillars in Indonesia's transition to a more accountable and participatory constitutional system.³⁵

³² Jakob Tobing, "The Essence of the 1999-2002 Constitutional Reform in Indonesia: Remaking the State of Law. A Socio-Legal Study," *The Essence of the 1999-2002 Constitutional Reform in Indonesia*, 2023, 625.

³³ Dikutip dari Budiman N.P.D Sinaga, *Hukum Tata Negara, Perubahan Undang Undang Dasar*, Jakarta PT Tata Nusa, 2009, hlm. 59.

³⁴ Mirza Satria Buan, "Form Review and Judicial Independence: A Comparative Perspective," *Constitutional Review* 10, no. 2 (2024): 340–66, <https://doi.org/10.31078/consrev1023>.

³⁵ Siti Hasanah et al., "Digital Government in Social Sciences Discipline: Mapping Pivotal Features and Proposed Theoretical Model," *Peuradeun Scientific Journal* 11, no. 1 (2023): 195–220, <https://doi.org/10.26811/peuradeun.v11i1.819>.

Constitutional reform has broad implications, including changes in state governance, democratic stability, and the rule of law. In this context, the existence of the Constitutional Court strengthens the function of judicial review as a guardian of the constitution.³⁶ The Constitutional Court not only assesses the suitability of laws against the 1945 Constitution, but also establishes constitutional precedents that affect state practice at large, even causing institutional effects such as defiance of the Constitutional Court's decisions and the need for strict legal sanctions.³⁷ This phenomenon reflects challenges to the effectiveness of judicial decisions in a presidential system that is still consolidating.

Constitutional reform refers to formal changes to the basic text of the state through amendment or revision procedures, with the aim of adapting constitutional norms to contemporary political, social and legal dynamics, and serving as a transitional bridge to a more participatory and accountable constitutional system. In this context, reform is not merely symbolic, but an important foundation in building constitutional governance that is adaptive to democratic values. The institutional approach as a normative advocacy tool for constitutional change,³⁸ becomes relevant when formal mechanisms and institutional actors work synergistically to encourage the legitimacy of constitutional change. Comparative amendment practices in several countries to explore the relevance of procedural and substantive accountability in Indonesia,³⁹ so as to produce comparative learning that can strengthen the process of constitutional reform in a structured and responsible manner.

2.2.2. Factors Affecting Public Perceptions of Constitutional Reform

The Constitutional Court is often considered a central actor in maintaining the supremacy of the constitution, but its credibility is questioned by the public when decisions are considered political or inconsistent with the principles of substantive justice. The DPR, on the other hand, is often negatively perceived due to its less participatory legislative practices and alleged conflicts of interest. Meanwhile, the President as the holder of executive power receives mixed evaluations depending on his alignment with the structural reform agenda. The decline in public trust in these three institutions is reflected in various perception surveys, which emphasizes the importance of simultaneously strengthening institutional integrity.

The performance of the Constitutional Court, the DPR and the President in safeguarding the constitution is the foundation of democratic sustainability. The Constitutional Court, despite its strategic role, also faces challenges in consistently upholding the principle of checks and balances. The DPR tends to fail in conducting legislative reviews that are responsive to citizens' constitutional rights, while the President is often in a dilemma between political interests and the constitutionality of policies. Empirical analysis shows that this lack of inter-agency synergy has contributed to the stagnation of legal reform and violations of constitutional principles. Therefore, the

³⁶ Eddyono, "The Constitutional Court and Consolidation of Democracy in Indonesia."

³⁷ Novendri M. Nggilu, "Initiating Sanctions for Constitution Disobedience to Constitutional Court Decisions," *Jurnal Konstitusi* 16, no. 1 (2019): 89, <https://doi.org/10.31078/jk1613>.

³⁸ Adfin Rochmad Baidhowah, "Rational Choice Institutionalism, Constitutional Reform, and Constitution Maker in Indonesia," *Journal of Government Politics Dharma Praja* 13, no. 2 (2020): 91–101, <https://doi.org/10.33701/jppdp.v13i2.1328>.

³⁹ Eddyono, "The Constitutional Court and Consolidation of Democracy in Indonesia."

evaluation of the constitutional performance of these institutions needs to be linked to the parameters of constitutional effectiveness, responsiveness and accountability in daily government practice.

Public perceptions of the independence of constitutional institutions greatly affect legal legitimacy and procedural justice. The Constitutional Court, for example, has experienced a decline in perceived independence due to political intervention in the selection process of judges as well as pressure on decisions with major political impact. The DPR is perceived as not independent in carrying out its oversight function due to the dominance of party oligarchs, while the President faces a dilemma between implementing populist policies and maintaining constitutional neutrality. Comparative studies show that a crisis of independence can lead to the delegitimization of legal processes, reduce public participation, and create a recurring cycle of distrust. Institutional reform must therefore start with reconstructing the political process of filling public office and strengthening internal control mechanisms.

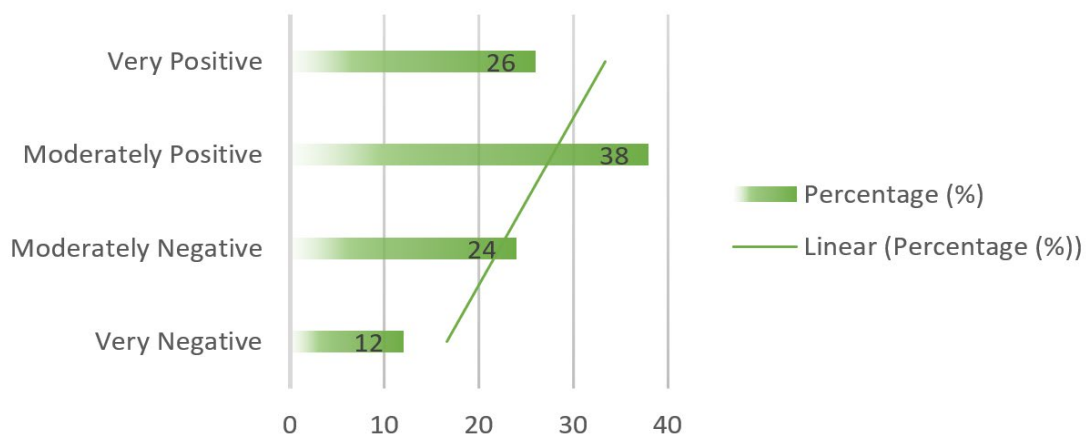
Accountability of constitutional institutions is a vital element to strengthen public trust in the long term. A Constitutional Court that fails to provide transparent explanations for its decisions, or that rejects public criticism, risks losing its institutional integrity. A DPR that does not involve the public in the legislative process lowers the quality of regulations and reinforces the stigma of being a closed and elitist institution. The President, as a symbolic and strategic figure, is required to make accountability a key principle in public policy decision-making. To ensure sustainable constitutional reform, strengthening horizontal and vertical accountability mechanisms is a must that cannot be delayed.

Legal literacy has an important role in shaping public perceptions of constitutional reform, as a good understanding of constitutional rights and obligations encourages rational engagement in the discourse of change. One medium for strengthening understanding is community-based legal counseling to increase the constitutional awareness of marginalized communities, especially in rural areas. Critical understanding of the substance of the 1945 Constitution is the foundation for public involvement in the reform process. Higher legal literacy is positively correlated with support for democratic and inclusive reform.

Transparency in the reform process also determines the perception of public legitimacy of constitutional change. An inclusive and open reform process strengthens public ownership of the amendments. Digital platforms such as e-petitions and online public forums expanded citizens' access to be involved in the reform agenda. Informal participation such as community discussions and neighborhood forums were important complements to processes that were not fully digitized. Mass media and social media are important tools in shaping public constitutional opinion. Public interaction through digital media has the potential to strengthen the accountability of state institutions if accompanied by moderation and education. Although social media increases participation, it can also pose challenges in the form of disinformation that can damage public perceptions of the reform process, such as constitutional hoaxes that arise due to political framing, requiring state intervention in the form of digital literacy education and information regulation to maintain the integrity of public opinion.

Legal literacy, transparency, and media influence interact to form a mutually reinforcing constitutional democracy ecosystem. Understanding legal norms strengthens public readiness to respond to institutional change. Procedural transparency is a prerequisite for the legitimacy of reform in a democratic society. Emphasis on the importance of active public engagement in a healthy digital space to support constitutional transformation. Improving public perception of constitutional reform demands an integrative and sustainable policy strategy. Integration of legal literacy curriculum in primary to tertiary education. Improved e-participation platforms that are easily accessible and inclusive for vulnerable groups. Fair and educative social media regulations can keep the public sphere constructive and prevent political disinformation.

Figure 1: Public Perception of Constitutional Reform



Source: Processed Using Nvivo 12 Plus (2025)

Based on figure 1 above, the statistics on public perceptions of constitutional change show that the majority of individuals have a favorable opinion. Sixty-four percent of respondents indicated a favorable attitude, including 38 % who expressed a somewhat favorable attitude and 26 % who expressed a very positive sentiment. These proportions indicate significant public optimism towards the constitutional reform process, which can be seen as a means to strengthen democracy, improve state structures and align the constitution with contemporary issues. The public seems to believe that constitutional amendments can deliver structural improvements if implemented in accordance with the ideals of transparency, equality and broad engagement.

Nonetheless, research shows that 36 % of the population has an unfavorable perspective on constitutional change, including 24 % who are somewhat negative and 12 % who are very negative. This group may have concerns about the intent and direction of the changes being implemented. They may question the political motives behind the reform discourse, including concerns that the constitution will be amended to consolidate power, extend the terms of office of officials, or reduce the authority of watchdog organizations. These critical perspectives demonstrate public understanding of constitutional issues and show that not all factions universally accept constitutional change.

The fairly even distribution of popular sentiment on support and opposition suggests that constitutional change is a multifaceted issue. While support is increasing, substantial opposition remains. As a result, it is important for the government and relevant institutions to uphold openness and facilitate broad public engagement at every phase of constitutional revision. Clear processes for information sharing, robust public discussions, and engaging community groups are essential to ensure these changes go beyond the interests of the few and truly represent what the people want.

The level of public trust in constitutional institutions, such as the Constitutional Court, is an important indicator in assessing the success of constitutional reform. The Constitutional Court is often considered a central actor in maintaining the supremacy of the constitution, but its credibility is questioned by the public when decisions are considered political or inconsistent with the principles of substantive justice. Public perceptions of the independence of constitutional institutions greatly influence legal legitimacy and procedural justice. Comparative studies show that a crisis of independence can lead to delegitimization of legal processes, decrease public participation, and create a recurring cycle of distrust.

Accountability of constitutional institutions is a vital element to strengthen public trust in the long term. A Constitutional Court that fails to provide transparent explanations for its rulings, or that rejects public criticism, risks losing its institutional integrity. To ensure sustainable constitutional reform, strengthening horizontal and vertical accountability mechanisms is an imperative that cannot be delayed.

2.2.3 Implications of Public Perceptions on Legitimacy and Future Directions of Constitutional Reform

The success of constitutional reform is highly dependent on the extent to which the process gains public legitimacy. This legitimacy is not only obtained from procedural validity, but also from the substance of changes that are perceived as fair, inclusive and relevant by the wider community. In the context of a constitutional democracy, such as Indonesia, any changes to the 1945 Constitution must be based on the people's trust in the integrity of the reform process and the political actors involved in it. Reforms based on public consensus tend to produce constitutions that are more stable, sustainable and able to respond to the challenges of the times. The absence of public support can make reform only an elite project that is vulnerable to social and political rejection.

Public apathy and skepticism towards the constitutional reform process creates serious risks to the legitimacy of the resulting changes. When the public does not feel involved in formulating the direction of reform, or does not believe that constitutional change is in the public interest, the outcome of reform is likely to be normatively rejected. This risks weakening institutional legitimacy and increasing political conflict and social fragmentation. Constitutional reform conducted in a closed and elitist manner accelerates the process of delegitimization of the legal and political system.

To avoid delegitimization and ensure the sustainability of reforms, public participation must be systemically enhanced. Participation should not only be symbolic, but should be substantive through open consultation mechanisms, deliberative forums, and civil society representation in the drafting of constitutional amendment agendas and texts. Constitutional reforms that involve local communities, academics and mar-

ginalized groups generate stronger legitimacy and encourage a sense of ownership over the constitutional document. Active public involvement also strengthens oversight of political elites and prevents oligarchic domination of the reform process. Therefore, a comprehensive design for participation needs to be the foundation of future constitutional reforms.

Accountability is also a key prerequisite in ensuring the legitimacy of constitutional reform, which must be built through transparency of the process, public reporting on the progress of reforms, and evaluation mechanisms by independent institutions such as the Constitutional Court or Ombudsman. In practice, the lack of accountability is often exploited by political forces to insert a narrow agenda in constitutional change. The success of reform is measured not only on legal-formal achievements, but also on how far the process is open to public criticism and correction. Accountability is thus an essential instrument to strengthen public trust and ensure that the direction of reform remains in line with the principles of constitutional democracy.

Within the framework of a democratic state based on the rule of law, public participation in the formulation of legislation is one of the fundamental principles that guarantees the legitimacy and accountability of policies. The author needs to systematically describe how opinions expressed regarding the urgency of public participation can be linked to applicable formal rules, so that the recommendations made are not only normative in nature, but also have a clear legal basis. According to Wahjoe Poernomo Soeprapto, meaningful public participation in the legislative process in Indonesia has gained legal ground through Constitutional Court Decision Number 13/PUU-XVI/2018, which affirms the right of the public to be involved in every stage of legislation. Furthermore, regulations regarding public participation are also stipulated in Law Number 13 of 2022 concerning the Formation of Legislation, which explicitly mandates open access and public consultation in the process of drafting and amending laws⁴⁰. This shows that the author's opinion on the need for transparency and public participation has strong normative support. In addition, Marcelino Ceasar Kishan emphasized that the implementation of e-legislation can strengthen public accountability by providing broader and more transparent channels for participation. The study confirms that community involvement through digital platforms not only fulfills formal aspects, but also improves the quality of public deliberation in policy-making⁴¹. Thus, the author's recommendations regarding transparency can be reinforced by empirical evidence that digital mechanisms are capable of expanding the scope of participation. Bonaventura Pradana Suhendarto adds Habermas' perspective on deliberative democracy, which emphasizes that public participation is not merely procedural, but must be meaningful and substantive. Regulatory impact analysis is an important tool for ensuring that the voice of the people is truly taken into account in the legislative process. This reinforces the argument that the author's recommendations regarding public participation should be directed towards substantive forms of participation, rather than mere formalities⁴².

⁴⁰ R Wahjoe, Poernomoe Soeprapto, and Poernomo Soeprapto, "Meaningful Participation Through Online Channels in Legislation Making in Indonesia via Dpr.Go.Id Page," *Trunojoyo Law Review* 6, no. 2 (September 7, 2024): 189–210, <https://doi.org/10.21107/tlr.v6i2.25960>.

⁴¹ Marcelino Ceasar Kishan, "Reconstructing Electronic Legislation to Strengthen Public Accountability: Lessons from Indonesia," *Jurist-Diction* 8, no. 3 (September 30, 2025): 371–96, <https://doi.org/10.20473/JD.V8I3.71111>.

⁴² Jurnal Ilmu Hukum et al., "MEANINGFUL PARTICIPATION AND REGULATORY IMPACT ANALYSIS IN LEGISLATION FROM THE PERSPECTIVE OF HABERMAS' DELIBERATIVE DEMOCRACY," *Refleksi Hukum*:

By elaborating the author's opinion within a formal framework and academic support, recommendations regarding transparency and public participation will be more concrete. The author can emphasize that public participation is not only a democratic requirement, but also a legal obligation regulated by law, and supported by academic studies that emphasize the importance of community involvement in every stage of legislation.

3. CONCLUSION

This study highlights the dynamics of constitutional change through non-formal channels, particularly through the interpretation of the Constitutional Court (MK), which poses a serious challenge to democratic legitimacy. The main findings indicate that legitimacy for constitutional change cannot depend solely on written legal norms, but must also gain public acceptance as a form of social recognition of constitutional authority. Without public trust in the independence and integrity of the MK, constitutional interpretations risk being perceived as a deviation from the principles of democracy, constitutionalism, and the rule of law. Furthermore, this study confirms that informal legitimacy is greatly influenced by the quality of the interpretation process. Processes that are open, accountable, and in the public interest will strengthen public trust, while closed and elitist processes will instead cause suspicion and delegitimization. Therefore, the main recommendation of this study is the need for a structured framework for public participation and clear oversight mechanisms in every constitutional interpretation process. Public participation should not be ceremonial or symbolic, but should be institutionalized through mechanisms that enable civil society, academics, and interest groups to provide substantive input on constitutional issues under review. The implications of these findings require policymakers and constitutional institutions to be more cautious in interpreting basic norms. Any form of constitutional change, whether formal or informal, must be carried out with respect for the principles of transparency, accountability, and inclusiveness. This is in line with Suhendarto's (2025) view, which emphasizes the importance of meaningful participation in Habermas' deliberative democracy framework, where public involvement is not merely procedural but must be substantive and influential in the outcome of legislation. Similarly, Kishan (2025) asserts that the implementation of electronic legislation mechanisms can strengthen public accountability by providing broader and more transparent channels for participation. Meanwhile, Soeprapto (2024) shows that public participation through the DPR.go.id online channel has become an important instrument for realizing community involvement in the legislative process in Indonesia. Thus, this study concludes that the legitimacy of constitutional amendments through Constitutional Court interpretations can only be maintained if there is strong public trust, structured participation mechanisms, and effective oversight. The policy recommendation proposed is the need to establish specific regulations governing public involvement in the constitutional interpretation process, so that public participation can take place in a systematic and sustainable manner and have a real impact on the substance of the decision. Without institutionalized channels for participation, the

constitutional interpretation process risks ignoring collective interests and creating a perception of elitism towards constitutional judicial institutions.

ACKNOWLEDGEMENTS

The author would like to express his deepest gratitude to Universitas Muhammadiyah Mataram, for the financial support, which made this research possible. The authors are also grateful to colleagues who have provided input in the drafting stage until the refinement of this article, as well as to journal reviewers for valuable corrections and suggestions that improve the quality of the manuscript. The authors declare that there is no conflict of interest in the conduct of this research. The entire writing process, from problem formulation, data collection and analysis, to the preparation of the article, is the result of the author's independent work with full contribution at every stage of the research.

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