

ULTRA PETITA CONSTITUTIONALITY IN THE CONSTITUTIONAL COURT

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Abstract

In making a decision on a judicial review case, ideally the Constitutional Court decides according to what the applicant requested in his/her application, but in practice the Constitutional Court often decides a case beyond what the applicant requested, or in other words, is ultra petita. This is actually contrary to the provisions in Article 45A of Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court, which prohibits the Constitutional Court from deciding ultra petita. The study used a normative legal method that focused on the legal aspect with a literature study approach. The results of the study show that the legislators wanted the Constitutional Court not to decide more than what the applicant requested because of the nature of the Constitutional Court's decision, which is final and binding. However, in subsequent cases, the provisions regarding the prohibition of ultra petita were also found to be contradictory by the Constitutional Court itself, namely through the Constitutional Court's decision Number 48/PUU-IX/2011 concerning the judicial review of Law Number 35 of 2009 concerning Narcotics and Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court, shortly after the enactment of Law Number 8 of 2011. The Constitutional Court, in deciding constitutional cases, must avoid actions that exceed its authority while still prioritizing the values of truth and justice that apply in society. However, the application of ultra petita is not without limitations, because it raises challenges that can weaken the effectiveness of the judiciary and has the potential to invite arbitrariness in judicial decision-making.

Keywords: *Constitutional Court; Review of Constitutional Laws; Ultra Petita*

Abstrak

Dalam memberikan putusan terhadap suatu perkara pengujian undang-undang, idealnya Mahkamah Konstitusi memutuskan sesuai dengan apa yang dimohonkan pemohon dalam permohonannya, namun dalam praktiknya Mahkamah Konstitusi sering kali memutuskan suatu perkara melebihi apa yang dimohonkan pemohon atau dengan kata lain bersifat *ultra petita*. Hal tersebut justru bertentangan dengan ketentuan dalam pasal 45A Undang-Undang Nomor 8 Tahun 2011 tentang Perubahan Atas Undang-Undang Nomor 24 Tahun 2003 tentang Mahkamah Konstitusi yang melarang Mahkamah Konstitusi untuk memutuskan secara *ultra petita*. Penelitian menggunakan metode yuridis normatif yang difokuskan pada aspek yuridis dengan pendekatan studi kepustakaan. Hasil penelitian menunjukkan bahwa pembentuk undang-undang menghendaki agar Mahkamah Konstitusi tidak memutuskan lebih dari apa yang dimohonkan pemohon dikarenakan sifat putusan Mahkamah Konstitusi yang bersifat final dan mengikat. Akan tetapi, pada perkara-perkara selanjutnya, ketentuan mengenai larangan *ultra petita* tersebut juga ditemukan kontradiksi oleh Mahkamah Konstitusi sendiri, yaitu melalui putusan Mahkamah Konstitusi Nomor 48/PUU-IX/2011 tentang pengujian Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika dan Undang-Undang Nomor 8 Tahun 2011 tentang Perubahan Atas Undang-Undang Nomor 24 Tahun 2003 tentang Mahkamah Konstitusi, sesaat setelah diundangkannya Undang-Undang Nomor 8 Tahun 2011. Mahkamah Konstitusi dalam memutuskan perkara konstitusi harus menjauhi tindakan yang melampaui

kewenangannya dengan tetap mengutamakan nilai-nilai kebenaran dan keadilan yang berlaku dalam masyarakat. Meskipun demikian, penerapan ultra petita bukannya tanpa keterbatasan, karena menimbulkan tantangan yang dapat melemahkan efektivitas peradilan dan berpotensi mengundang kesewenang-wenangan dalam pengambilan keputusan peradilan.

Kata Kunci: *Mahkamah Konstitusi; Pengujian Undang-Undang; Ultra Petita*

A. Introduction

The history of institutions involved in constitutional review activities globally has evolved rapidly through various stages of implementation in different countries. Some nations have connected the review process to an existing institution, namely the Supreme Court. Others have assigned the responsibility of constitutional testing to specialized agencies within other judicial bodies. Additionally, some have created distinct institutions specifically designated as Constitutional Courts. Conversely, there are also nations that do not acknowledge this function at all.¹

Indonesia is one of the countries that has institutionalized the constitutional review function within the Constitutional Court. At first, the reform movement that took place in Indonesia started with the demands of the people for changes to a democratic state administration accompanied by demands for changes to the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the 1945 Constitution of the Republic of Indonesia, which had a huge impact on the life of the nation. This impact also occurs in the constitutional system in Indonesia. The reform movement has brought a major change in the constitutional system in Indonesia. This is reflected in the amendment of the 1945 Constitution of the Republic of Indonesia four times, when during the New Order period it was in power for almost 32 years, the 1945 Constitution of the Republic of Indonesia was only used as a tool for coercing power by the authorities at that time.²

¹ Jimly Asshiddiqie, *Model-Model Pengujian Konstitusional Di Berbagai Negara* (Jakarta: Sinar Grafika, 2010).

² Isya Salsabila Rahman, Utang Rosidin, and Muhammad Alwi Khoiri Ramdani, "KEWENANGAN MAHKAMAH KONSTITUSI SEBAGAI LEMBAGA SUPERBODY DALAM SISTEM KETATANEGARAAN INDONESIA," *Qanuniya: Jurnal Ilmu Hukum* 1, no. 1 (2024): 35–46, <https://doi.org/10.15575/qanuniya.v1i1.820>.

The existence of the constitutional court has an important position in the Indonesian state system. Its establishment from the beginning was intended to resolve cases that are closely related to the constitutionality of state administration and state administration problems in Indonesia. Article 2 of Law No. 24 of 2003 concerning the Constitutional Court states that "The Constitutional Court is one of the state institutions that exercises independent judicial power to administer justice in order to uphold law and justice. In carrying out its judicial function, the Constitutional Court has an equal position with other state institutions, including its colleague the Supreme Court."³

The Constitutional Court represents a new state institution within Indonesia's constitutional framework, established because of amendments to the 1945 Constitution of the Republic of Indonesia. As a constitutional organ, this institution is tasked with exercising judicial power within the constitutional system, serving as a guardian and interpreter of the constitution.⁴ The existence of the Constitutional Court is essential for maintaining a stable state government and reflects a corrective measure based on past experiences in constitutional governance. The previous description highlights a legal issue concerning the ambiguity surrounding the authority of the Constitutional Court to issue *ultra petita* decisions. This ambiguity has led to differing interpretations between legislative institutions, specifically between the People's Representative Council (DPR) and the Constitutional Court (MK). As a result, the author is compelled to explore the implications of *ultra petita* decisions, especially considering the Constitutional Court's recent

³ Suwarno Abadi, "Annotation to the Constitutional Court Decision Pengujian Formal Terhadap Putusan Mahkamah Konstitusi : Komentar Terhadap Putusan Mahkamah Konstitusi Nomor 145 / PUU-XXI / 2023," *Jurnal Konstitusi* 22, no. 1 (2025), <https://doi.org/10.31078/jk2217>.

⁴ dan Sirajuddin Fatkhurohman Dian Aminudin, *Memahami Keberadaan Mahkamah Konstitusi Di Indonesia* (Bandung: Citra Aditya Bakti, 2004).

ruling that lifted the prohibition on such decisions within the Constitutional Court Law.⁵

The decision made by the Constitutional Court during its review of a law is known as a declaratory constitution. This means that the Court's decision creates or alters a legal situation. Some of the judicial review decisions issued by the Constitutional Court have also been recognized as legal discoveries (*rechtsvinding*). Ideally, the Court's ruling aligns with the requests made by the applicant in their application to review a law against the 1945 Constitution of the Republic of Indonesia—referred to as *ultra petita*. However, according to Article 45A of Law Number 8 of 2011, which amends Law Number 24 of 2003 regarding the Constitutional Court and was ratified on June 21, 2011, it is stipulated that "the decision of the Constitutional Court may not include a ruling that was not requested by the applicant or that exceeds the applicant's request, except in specific matters related to the subject of the application."⁶ Furthermore, Article 50A of Law Number 8 of 2011 states that "the Constitutional Court, in examining laws against the 1945 Constitution of the Republic of Indonesia, shall not use other laws as a basis for its considerations."

The principle stipulating that decisions must not exceed what has been requested is articulated in Article 178, paragraph (3) of the HIR, Article 189, paragraph (3) of the RBG, and Article 50 of the RV. This prohibition is referred to as *ultra petitem partium*. A judge who grants more than what is specified in the *posita* or *petitum* is considered to have exceeded the limits of their authority (*ultra vires*), which means acting beyond their legal powers.⁷

The previous description highlights a legal issue concerning the ambiguity surrounding the authority of the Constitutional Court to issue *ultra*

⁵ Suwarno Abadi, "Annotation to the Constitutional Court Decision Pengujian Formal Terhadap Putusan Mahkamah Konstitusi : Komentar Terhadap Putusan Mahkamah Konstitusi Nomor 145 / PUU-XXI / 2023."

⁶ Republik Indonesia, Undang-Undang Nomor 8 tahun 2011 tentang Perubahan atas Undang-Undang Nomor 24 Tahun 2003 tentang Mahkamah Konstitusi, pasal 45A

⁷ M. Yahya Harahap, *Hukum Acara Perdata* (Jakarta: Sinar Grafika, 2008).

petita decisions. This ambiguity has led to differing interpretations between legislative institutions, specifically between the People's Representative Council (DPR) and the Constitutional Court (MK). As a result, the author is compelled to explore the implications of ultra petita decisions, especially considering the Constitutional Court's recent ruling that lifted the prohibition on such decisions within the Constitutional Court Law.

Based on this context, the author identifies the key issues to be addressed in this study, including: What are the considerations guiding constitutional judges in the issuance of ultra petita decisions? And what is the constitutional standing of ultra petita decisions made by the Constitutional Court?

The methodological approach employed in this study is a normative juridical method, which involves conducting research focused on juridical aspects. This approach is implemented through library research, examining various literature related to legal theories and principles, particularly in the context of assessing the constitutionality of ultra petita within the Constitutional Court. Consequently, the researchers not only explore legal principles and theories but also delve into statutory inventories, legal systematics, vertical and horizontal synchronization levels, comparative law, and legal history.⁸

B. Result and Discussion

1. Legal Considerations of Constitutional Judges in Deciding Ultra Petita Decisions

a. Role and Function of the Constitutional Court

According to Article 24C Paragraph (1) of the 1945 Constitution, the Constitutional Court holds the authority to (a) review laws for compliance with the Constitution; (b) resolve disputes regarding the powers of state

⁸ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: CV. Rajawali, 2013).

institutions established by the Constitution; (c) adjudicate the dissolution of political parties; and (d) settle disputes concerning the results of general elections. In addition, the Constitutional Court has a specific obligation outlined in Article 7B Paragraph (4) of the 1945 Constitution, which states, "To decide on the opinion of the DPR regarding whether the President and/or Vice President has committed legal violations, including treason against the state, corruption, bribery, other serious crimes, or disgraceful acts, and/or whether the President and/or Vice President no longer meets the requirements for their office."⁹

The primary authority of the Constitutional Court serves as the foundation for its establishment, commonly referred to as "judicial review." However, this terminology should be clarified and may be better expressed as "constitutional review," reflecting the Court's role in examining laws against the 1945 Constitution. By definition, "constitutional review" embodies a modern understanding of a democratic governmental framework rooted in the rule of law, the principle of separation of powers, and the safeguarding of fundamental rights. The "constitutional review" system encompasses two principal tasks, namely:¹⁰

- 1) The effectiveness of the democratic system is fundamentally rooted in the dynamic interplay between the executive, legislative, and judicial branches of government. This intricate relationship is essential for maintaining a system of checks and balances that safeguards against the concentration and potential abuse of power. Constitutional review serves a pivotal role in this framework, as it is designed to ensure that no single branch of government can dominate or overstep its authority, thereby preserving the fundamental principles of democracy and preventing the arbitrary exercise of power.

⁹ Republik Indonesia, Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Pasal 24C ayat (1) dan Pasal 7B ayat (2)

¹⁰ Jimly Asshiddiqie, *Model-Model Pengujian Konstitusional Di Berbagai Negara*.

- 2) The primary objective is to safeguard each citizen against the potential misuse of authority by state institutions, which may infringe upon the fundamental rights enshrined in the constitution. This protection is essential for upholding the principles of justice and the rule of law within a democratic society.

b. Definition of Ultra Petita

Ultra petita refers to a judge's decision in a case that goes beyond what has been requested by the parties involved or addresses issues that were not properly raised in the proceedings. In formal legal terms, ultra petita implies imposing a ruling that exceeds the original claims or demands of the applicant. According to I.P.M. Ranuhandoko, ultra petita involves issuing a decision that is more expansive than what was asked for.¹¹ This concept has been extensively studied in the realm of civil law, particularly with the establishment of an older civil court following the enactment of judicial power in Indonesia. The legal foundation for ultra petita is outlined in Article 178, paragraphs (2) and (3) of the HIR, as well as in Article 189, paragraphs (2) and (3) of the RBG, which explicitly prohibit judges from ruling beyond the demands presented (petitum).

The HIR provisions represent procedural law applicable in civil courts in Indonesia. However, their application has evolved, and the concept of ultra petita has extended beyond civil courts to other judicial arenas, including the Constitutional Court, which is tasked with overseeing constitutional matters. In principle, the application of ultra petita is not allowed. Consequently, a *judex factie* who commits an error by "wrongfully applying or violating the applicable law" has the right to seek cassation, as stipulated in Article 30 of the Supreme Court Law, along with the grounds for review outlined in Articles 67 and 74 (1) of the same law. Within civil law, the role of the judge is often characterized as "passive," meaning the judge refrains from taking action beyond the scope or subject matter of the dispute presented by the parties

¹¹ Ranuhandoko IPM, *Terminologi Hukum* (Jakarta: Sinar Grafika, 2000).

involved. Thus, in civil courts, *ultra petita* is clearly prohibited, and any violations by a judge can be subject to further legal recourse, such as cassation and review.

In contrast, the procedural law governing the Constitutional Court displays a significant difference regarding *ultra petita*, as this issue remains unregulated entirely. The object of cases—or *objectum litis*—in the Constitutional Court diverges from that in civil courts. While civil courts primarily aim to protect individual interests, the Constitutional Court deals more with public law, safeguarding not only the interests of the parties but also the broader rights of all Indonesian citizens. As the guardian and interpreter of the Constitution, the Constitutional Court plays a crucial role in preserving democracy and protecting citizens' constitutional rights, leading to a distinct set of principles and character that differentiate it from other courts.

c. Legal Considerations of Constitutional Judges in Deciding *Ultra Petita* Decisions

Based on the characteristics of cases under the jurisdiction of the Constitutional Court, the principle of *ultra petita* prohibition is not applicable to trials within this court. Generally, the Constitutional Court possesses the authority to review laws, although submissions can only be made by individuals whose constitutional rights have been compromised by statutory provisions. This is due to the nature of its examination, which pertains to legal provisions as abstract norms that are generally binding. In the context of a judicial review, the cases presented involve the public interest, and the legal consequences are binding on all (*erga omnes*). On the other hand, the principle of *ultra petita* prohibition is relevant in civil law, where the initiative to defend a private right rest solely with the individual, and the legal outcomes are only binding on that individual, not on others or the public.¹²

¹² Maruarar Siahaan, *Hukum Acara Mahkamah Konstitusi Republik Indonesia*, Edisi Kedua (Jakarta: Sinar Grafika, 2022).

In exploring the legal considerations utilized by constitutional judges when making ultra petita decisions, the author has analyzed several rulings from the Constitutional Court. This analysis includes the Supreme Court of the Constitution Decision Number 48/PPU-IX/2011, which addresses the review of Law Number 35 of 2009 regarding Narcotics and Law Number 8 of 2011 concerning amendments to Law Number 24 of 2003 on the Constitutional Court. The author has also examined MK Decision Number 022/PUU-I/2013 related to the review of the electricity law, MK Decision Number 006/PUU-IV/2006 concerning the Truth and Reconciliation Commission Law, MK Decision Number 005/PUU-IV/2006 regarding the Judicial Commission Law and the Judicial Powers Act, MK Decision Number 5/PUU-V/2007 pertaining to the Regional Government Law, and MK Decision Number 102/PUU-VII/2009 focusing on the Law governing the general election of the President and Vice President. These six decisions serve as representative examples of ultra petita rulings that are the subject of this study, even though the Constitutional Court has issued more than five similar ultra petita decisions in its law reviews to date.¹³

Upon examining the overall legal considerations derived from various cases that exemplify the previous author's analysis, it can be observed that the constitutional judges tend to base their decisions regarding ultra petita-whether regulatory or not-in law review on the following points:¹⁴

- 1) The articles approved by the Constitutional Court represent the core of the law.
- 2) Pertaining to the public interest, the legal consequences of such decisions are erga omnes.

¹³ Ikhsan Fatah Yasin, "Keadilan Substantif Dalam Ultra Petita Putusan Mahkamah Konstitusi," *Justicia Islamica* 15, no. 1 (2018): 13–26, <https://doi.org/10.21154/justicia.v15i1.1252>.

¹⁴ Ryan Tony Sitohang and Emy Hajar Abra, "Ultra Petita Dalam Putusan Pemilihan Kepala Daerah Pada Mahkamah Konstitusi Indonesia," *Etita* 3, no. 1 (2021): 135–48, <https://doi.org/10.33373/pta.v3i1.3420>.

- 3) Given the developments arising from community needs, the restrictions on ultra petita do not apply in an absolute sense.
- 4) Considerations of fairness and decency play a significant role.
- 5) When public interest dictates, judges should not remain solely focused on the petition (petitum).
- 6) It is common for the applicant's petition to include the phrase (ex aequo et bono), allowing judges the discretion to render decisions beyond the petitum.
- 7) This practice is commonly observed in the Constitutional Courts of other countries.
- 8) Judges often encounter urgent matters within limited timeframes, making it impractical to simply declare an article as constitutional or unconstitutional.¹⁵

In addition to the legal considerations, the Constitutional Court has adopted a principle of interpretation that enhances its role as an independent branch of the judicial system, committed to administering justice and upholding the law. This capacity allows it to engage in ultra petita, where the Court, in exercising its authority to adjudicate cases based on constitutional mandates, does not merely adhere to the literal text of legal provisions but may also address issues of legal certainty and justice that are often overlooked. The Constitutional Supreme Court is tasked with achieving substantive justice in accordance with the 1945 Constitution of the Republic of Indonesia, the prevailing laws, general constitutional principles, and the judiciary's recognized standards. Jimly Assidique outlines the functions of the Constitutional Court, which include:¹⁶

- 1) Guardian of the Constitution

¹⁵ Martitah, *Mahkamah Konstitusi, Dari Negative Legislature Ke Positive Legislature?* (Jakarta: Konstitusi Press, 2013).

¹⁶ Jimly Asshiddiqie, *Pokok-Pokok Hukum Tata Negara Indonesia Pasca Reformasi* (Jakarta: Sinar Grafika, 2007).

- 2) Oversight of decisions within a democratic framework (Control of Democracy)
- 3) The Sole or Highest Interpreter of the Constitution
- 4) Protector of Citizens' Constitutional Rights
- 5) Defender of Human Rights¹⁷

Among the five functions outlined, this provides the foundation for constitutional judges to issue *ultra petita* decisions. Additionally, grounded in the principle of judicial independence and freedom, the Constitutional Court is entitled to exercise its own legal interpretations when adjudicating cases. Judges, including constitutional judges, are therefore obligated to explore, adhere to, and comprehend the legal values and societal sense of justice that prevail within the community. This framework allows the Constitutional Court to conduct *ultra petita* actions in its rulings, even if such actions are not explicitly stated in the Constitution, laws, or the procedural regulations of the Constitutional Court concerning legal reviews. The Court's decision to engage in *ultra petita* can also be viewed as a demonstration of the judges' progressive approach in resolving cases, particularly in the context of reviewing laws against the Constitution.

2. Ultra Petita Constitutionality in The Constitutional Court

Constitutionality refers to actions and processes that align with the principles outlined in the constitution. In essence, it signifies the appropriateness of all aspects of state administration based on the foundational rules that constitute the essence of the constitution. The fundamental rules embodied in the 1945 Constitution are enacted through statutory regulations, which serve as the basis and framework for governing the state.¹⁸

The criteria or instruments for assessing constitutionality include:

¹⁷ Jimly Asshiddiqie.

¹⁸ Amanda Dea Lestari & Bustanuddin, "Putusan Ultra Petita Mahkamah Konstitusi: Memahami Fenomena Holistik Penemuan Hukum (Rechtsvinding) Yang Progresif," *Limbago: Journal of Constitutional Law* 1, no. 1 (2021): 1–20, <http://worldcat.org/identities/lccn-n97904797/>.

- a. The officially documented text of the 1945 Constitution of the Republic of Indonesia.
- b. Constitutional values that are present in practice, which are regarded as essential elements of the obligations and customs associated with state activities.
- c. The prevailing values within society that shape citizens' legal and political behavior, viewed as both an ideal practice and a necessity for the life of the nation and state.

Constitutionality is not a narrow concept solely focused on the text of the 1945 Constitution of the Republic of Indonesia. The three evaluative frameworks for assessing constitutionality function as an integrated whole, and there should be no conflicts among them. This means that the interpretation of the constitutionality of a norm or action must consider the harmony between the text of the 1945 Constitution (original meaning), the values contained in the spirit of the constitution (spirit of the constitution), and the moral principles and justice that live in society (living constitution). This approach ensures that legal decisions are not merely legalistic, but also rooted in social reality and substantive justice values. Thus, constitutionality becomes a dynamic, adaptive, and responsive concept to the development of the times, without losing the basis of its normative legitimacy.¹⁹

An ultra petita decision refers to a ruling that extends beyond what the applicant had requested. While the procedural law of the Constitutional Court and the Act on the Constitutional Court do not specifically address ultra petita decisions in the context of legal reviews, Article 24, paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that:²⁰

"The power of the judiciary is an independent power to administer regulations to uphold law and justice."

¹⁹ Ryan Tony Sitohang and Emy Hajar Abra, "Ultra Petita Dalam Putusan Pemilihan Kepala Daerah Pada Mahkamah Konstitusi Indonesia."

²⁰ Republik Indonesia, 24 ayat Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, pasal 24 ayat (1)

Then in Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power. Also explained that:²¹

"Constitutional judges and judges are obliged to explore, follow, and understand the values of the law and the sense of justice that lives within society."

The article emphasizes that judicial power is independent and free, indicating that judges can perform their duties without interference from any party. In this context, a constitutional judge not only possesses the autonomy to interpret the law but also has the responsibility to explore and understand the legal values and sense of justice prevalent in society. These principles serve as the constitutional foundation for constitutional judges when issuing ultra petita decisions.²²

The essence of a judge's independence lies in their ability to explore, interpret, and comprehend the legal values that resonate within the community while remaining uninfluenced by various external and internal pressures, including their own interests. Judges are not merely instruments of the law; they are not required to rely solely on existing legal frameworks when making decisions in cases. Judges are required to have high social and moral sensitivity in assessing each case, so that the resulting decision is not only in accordance with the legal text, but also reflects the sense of justice that lives in society. This independence allows judges to play an active role in developing the law through progressive decisions based on the principles of substantive justice. Therefore, personal integrity, freedom of thought, and moral courage are absolute prerequisites in carrying out judicial functions independently and responsibly.²³

²¹ Republik Indonesia, Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman, Pasal 5 ayat (1)

²² Amanda Dea Lestari & Bustanuddin, "Putusan Ultra Petita Mahkamah Konstitusi: Memahami Fenomena Holistik Penemuan Hukum (Rechtsvinding) Yang Progresif."

²³ Adena Fitri Puspita Sari dan Purwono Sungkono Raharjo, "Mahkamah Konstitusi Sebagai Negative Legislator Dan Positive Legislator," *Sovereignty: Jurnal Demokrasi Dan Ketahanan Nasional* 1, no. 4 (2022): 681–91, <https://journal.uns.ac.id/Sovereignty/article/view/112>.

In the context of issuing ultra petita judgments, constitutional judges are afforded the latitude to interpret and elucidate the societal values enshrined in the constitution, thereby facilitating the realization of substantive justice. This principle mandates that judges prioritize actual justice, even in instances where such considerations are not explicitly raised by the applicant in their petition. Consequently, Constitutional Court judges are both obliged and empowered to render ultra petita verdicts predicated on notions of fairness and expediency.²⁴

The prohibition against issuing ultra petita judgments stands in stark contrast to the procedural tenets governing the operations of the Constitutional Court. The paramount objective in statutory testing cases is to uphold and safeguard the public constitutional interests guaranteed by the constitution. This is inherently linked to the principle of erga omnes, wherein the enacted laws are presumed to be acknowledged by all citizens, as they have been promulgated by the appropriate authorities. Thus, it follows that Constitutional Judges ought not to be constrained solely by procedural interests or the specific petitions presented before them. It is imperative to recognize the Constitutional Court's significant responsibility to protect the constitutional rights of citizens, particularly in instances where these rights may be infringed upon by legislative acts.

Nevertheless, it is critical to acknowledge that the application of ultra petita within the Constitutional Court must not be absolute; it requires careful restrictions to mitigate potential issues arising from its implementation. While the independence and interpretative freedom enjoyed by judges allow for legal innovation, this latitude also risks engendering arbitrariness in judicial decision-making. This concern is exemplified by various ultra petita rulings that encroach upon legislative functions. Such court decisions that adopt a regulatory nature not only undermine the principle of separation of powers

²⁴ Ikhsan Fatah Yasin, "Keadilan Substantif Dalam Ultra Petita Putusan Mahkamah Konstitusi."

but also pose a threat to judicial integrity, professionalism, and statesmanship, thus fostering an environment conducive to judicial overreach.²⁵

C. Conclusion

The legal framework underlying the Constitutional Court's authority to issue *ultra petita* rulings, particularly in the context of theoretical statutory testing, hinges on its interpretation of constitutional principles. This interpretation reinforces the role of the Constitutional Court as an independent judiciary tasked with upholding the rule of law and justice. The Court's mandate enables it to transcend a mere evaluation of the legal provisions' soundness when adjudicating cases arising under the Constitution. Moreover, the Constitutional Court possesses the latitude to employ its interpretative authority concerning statutory provisions.

Judges, including constitutional judges, are thus obligated to engage in a thorough exploration of, and adherence to, the evolving legal values and prevailing sense of justice within society. This interpretative freedom establishes a foundational premise that allows the Constitutional Court to conduct *ultra petita* deliberations within its statutory testing of the Constitution.

The principle of *ultra petita* is constitutionally legitimate within Indonesia's constitutional justice system, as it aligns with the stipulations of Article 24, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which asserts that "judicial power is an independent authority for the enforcement of law and justice." Additionally, Article 5, paragraph (1) of Law Number 48 of 2009 on Judicial Power further articulates that "constitutional judges and other judges are required to explore, follow, and comprehend the values of law and the sense of justice prevalent in society." These provisions provide the constitutional foundation for Constitutional Court judges to issue

²⁵ Adena Fitri Puspita Sari dan Purwono Sungkono Raharjo, "Mahkamah Konstitusi Sebagai Negative Legislator Dan Positive Legislator."

ultra petita decisions. It is essential that the Constitutional Court, in rendering legal judgments pertaining to constitutional cases, refrains from actions that exceed its jurisdiction while prioritizing the values of truth and justice that resonate within society. Nevertheless, the application of ultra petita is not without its limitations, as it introduces challenges that may undermine the effectiveness of the judiciary and potentially invite arbitrariness in judicial decision-making.

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