Justitia Jurnal Hukum, Vol 10, Issue (2), 2026: 181-197
P-ISSN: 2579-9983, E-ISSN: 2579-6380
DOI: https://doi.org/10.30651/justitia.v10i2.31187

Institutional Impunity and the Absence of Penal Sanctions as Drivers of Legislative Avoidance in Constitutional Court Rulings

Rizki Rahayu Fitri[1*], Lita Tyesta Addy Listya W[2], Fifiana Wisnaeni[3], Ilham Tri Yubsir[4], Amir Rezaeipanah[5]

[1,2,3] Diponegoro University, Indonesia
[4] Experts at the Secretariat of DPR-RI, Indonesia
[5] Shaheed Bahesti University, Iran
* Corresponding Author: rizkirahayuf@gmail.com

Article history
Received : April 7, 2026
Accepted : August 21, 2026
Published : October 01, 2026

Abstract

This study analyzes structural institutional impunity and the lack of enforceable penal sanctions that drive state institutions' noncompliance with Constitutional Court decisions in Indonesia. The core legal issue is the persistent gap between the final, binding nature of constitutional rulings and the reality of legislative evasion, where pragmatic interests override constitutional mandates without legal deterrence. Employing a normative legal research method supported by a socio-legal approach, the study evaluates institutional defiance through a penal policy and public accountability perspective. The results reveal that legislative compliance is mostly symbolic rather than substantive, representing legislative avoidance to safeguard political and economic agendas in the absence of criminal or severe administrative penalties. This non-compliance is structurally facilitated by the total absence of executorial enforcement mechanisms and enforceable legal sanctions within the national constitutional framework. An empirical examination of Decision No. 91/PUU-XVIII/2020 concerning the Job Creation Law illustrates how legislative actors utilize procedural maneuvers to bypass substantive constitutional rectifications. Consequently, this persistent defiance shifts the state framework from constitutional supremacy to political supremacy, degrading institutional legitimacy. Addressing this crisis requires reforming legislative legal politics, adopting a robust

penal policy, and establishing strict executorial mechanisms and legal sanctions to ensure absolute institutional compliance.

Keywords: Constitutional Court; Legislative Compliance; Institutional Impunity; Penal Sanctions; Legal Politics.

INTRODUCTION

Normatively, Constitutional Court (Mahkamah Konstitusi/MK) decisions are constitutionally final and binding, serving as the ultimate mechanism for safeguarding constitutional supremacy and resolving constitutional disputes. Lawmakers and state authorities must abide by these rulings; however, recent legislative practice reveals a significant gap between the Court's rulings and their practical implementation by the House of Representatives (Dewan Perwakilan Rakyat or DPR) and the Government (Mahkamah Konstitusi RI, 2020).

The response of the DPR and the Government to the Court's rulings illustrate a pattern of political adaptation that frequently contradicts the expectations of constitutional enforcement. Instead of fully implementing the Court's mandate, lawmakers often adopt procedural adjustments that only partially accommodate constitutional demands. Academic analyses and regulatory reform institutions view such responses as being triggered by political calculations, interest-group pressures, and legislative technical strategies, ultimately resulting in normative uncertainty (PSHK). Furthermore, this systemic defiance is heavily enabled by institutional impunity, where state actors bypass judicial mandates without facing legal deterrence or punitive consequences.

Similar phenomena are also evident in Constitutional Court decisions concerning electoral regulations, mining governance, and institutional oversight over the Corruption Eradication Commission (Komisi Pemberantasan Korupsi or KPK). In many instances, legislative actors implement Constitutional Court decisions selectively or partially, suggesting that constitutional compliance is often constructed by political negotiation rather than strict legal obligation (Hukumonline, 2025).

Departing from this background, this research not only maps the legal gap between the theoretical final and binding nature of Constitutional Court decisions and their practical implementation, but also examines the absence of penal sanctions and the legislative-political roots that foster structural impunity. The study offers reconstructive recommendations at the levels of legislative penal policy, internal state oversight mechanisms, and enforcement instruments aimed at narrowing the space for non-compliance with Constitutional Court decisions, thereby strengthening constitutional supremacy and legal certainty (KPPOD, 2025).

This condition indicates that implementing Constitutional Court decisions is not merely a matter of legal norms but also a question of legal politics and penal policy. This phenomenon may be analyzed through the concept of symbolic compliance formal compliance without substantive implementation of constitutional mandates. In addition, the concept of legislative avoidance explains how legislative actors strategically reinterpret or delay Constitutional Court decisions to maintain political and economic interests. As the law-making body, the DPR works within political agendas, group interests, and pressure from economic actors that may influence its response to the Court's mandates (Asy'ari *et al.*, 2013). In this context, compliance with Constitutional Court decisions often becomes a mere formal symbol, without substantive actions that reflect the spirit of the Constitution (Nggilu, 2019).

From a popular sovereignty perspective, disregarding Constitutional Court decisions essentially denies the people's mandate as the ultimate holder of power. The Constitutional Court serves as an institutional instrument to ensure that legislative products remain consistent with the Constitution; therefore, when the DPR and the Government ignore such decisions, they effectively weaken public control over legislative and executive authority. The complete absence of penal sanctions and enforceable criminal accountability for state institutions that fail to comply with Constitutional Court decisions further worsens this situation, cementing absolute institutional impunity. Furthermore, disregarding Constitutional Court decisions weakens public sovereignty, given that the Constitutional Court guards constitutional values and democratic accountability (Setiadi, 2013).

Recent studies have critically examined constitutional disobedience in the Indonesian legal system, particularly legislative circumvention. Butt and Murharjanti (2022) comprehensively show how the national parliament frequently exploits the lawmaking process to bypass Constitutional Court decisions (Butt & Murharjanti, 2022). In their analysis of legislative responses, they reveal that rather than ensuring genuine constitutional compliance, lawmakers often enact statutes that effectively revive invalidated norms. Such legislative responses are systematically intended to serve specific commercial and political vested interests, ultimately suggesting that constitutional review can become counterproductive when legislative responses deliberately contradict the core intent of judicial rulings.

Parallel to this legislative evasion, contemporary studies also highlight distinct patterns of institutional defiance in the executive branch. Pahlawan specifically analyzes the aftermath of Constitutional Court Decision No. 91/PUU-XVIII/2020 concerning the Job Creation Law, exposing profound administrative disobedience (Mp et al., 2024). Their research reveals how the government deliberately issued administrative instructions that directly violated the Court's explicit order to temporarily suspend the binding force of the unconstitutional law. This blatant executive disregard for constitutional mandates not only creates severe legal

uncertainty and public distrust but also lays the theoretical groundwork for serious political consequences, including potential presidential impeachment.

While these previous studies have extensively mapped isolated instances of legislative evasion and executive defiance, a critical analytical gap persists. Existing literature has largely treated parliamentary circumvention and administrative disobedience as separate phenomena, primarily focusing on their political and administrative dimensions. Crucially, these studies have not fully addressed the synergistic political collusion between these two branches under institutional impunity and the absence of penal sanctions. Prior studies have yet to examine how the lack of enforceable criminal or severe legal accountability actively facilitates and protects this coordinated defiance.

To address this gap, this study analyzes the integrated political dynamics and structural impunity that drive state institutions' non-compliance with Constitutional Court decisions. By evaluating how pragmatic political alliances between the DPR and the Government collaboratively construct a facade of symbolic compliance devoid of penal consequences, this research seeks to demonstrate how persistent institutional defiance disrupts the balance of power and effectively shifts the state framework from constitutional supremacy to political supremacy. Finally, this study aims to propose a robust legislative penal policy and strict executorial sanctions to ensure absolute institutional obedience to constitutional justice.

METHODS

This study is normative legal research, complemented by a socio-legal approach, to systematically examine the complex gap between constitutional norms and political practice. Drawing on the normative legal research framework developed by Peter Mahmud Marzuki (Marzuki, 2019), the study goes beyond a purely doctrinal description by examining how institutional interests, political contestation, and power relations influence the implementation of judicial decisions. By connecting normative legal provisions with empirical political realities, this methodological framework captures the dynamic interaction between constitutional texts and their practical enforcement by state institutions.

To examine the phenomenon comprehensively, this study integrates several analytical approaches. The statutory approach examined relevant constitutional provisions, legislation, particularly Law Number 24 of 2003 concerning the Constitutional Court, as amended, and implementing regulations governing institutional authority and the final and binding nature of judicial decisions. The conceptual approach examined the fundamental doctrines of constitutional supremacy, judicial finality, and the separation of powers. The case approach qualitatively analyzed Constitutional Court Decision Number 91/PUU-XVIII/2020

concerning the Job Creation Law as a strategically significant judicial precedent to identify the practical mechanisms through which legislative actors may circumvent judicial rulings and engage in symbolic compliance. In addition, legal politics and penal policy approaches examined how legislative and executive conduct affects institutional compliance, given the structural absence of enforceable penal sanctions and institutional impunity (Rijadi, 2022).

Data were collected through intensive library research, focusing on authoritative legal doctrines, statutory and regulatory frameworks, judicial decisions, doctrines of penal accountability, and contemporary scholarly literature (Tahir et al., 2023). These legal materials were analyzed qualitatively by combining a descriptive-analytical method with a prescriptive approach. The descriptive-analytical method identified and examined the political dynamics and penal gaps underlying institutional non-compliance, while the prescriptive approach was employed to formulate legally grounded recommendations for addressing these structural deficiencies. Through this integrated analytical framework, the study develops a rigorous legal argument for structural reforms, including penal policy and legislative reforms, to strengthen institutional compliance with constitutional justice and the authority of constitutional adjudication.

RESULT AND DISCUSSION

The Doctrinal Paradox and Collective Decision-Making

In contemporary democratic constitutionalism, establishing a specialized constitutional tribunal signals a structural commitment to limiting political power through supreme legal norms. In Indonesia's constitutional structure, the Constitutional Court is codified as the ultimate guardian of the 1945 Constitution, entrusted with the virtuous mandate to safeguard constitutional integrity, protect fundamental rights, and maintain the state's structural equilibrium. This judicial institution serves as the primary institutional bulwark against legislative and executive overreach, ensuring that all state actions and statutory products remain strictly aligned with constitutional values. Consequently, the structural efficacy of the entire legal order depends heavily on the institutional authority and operational reach of the Court's adjudicative output (Reayat, 2026).

The Constitutional Court’s foundational authority is explicitly anchored in Article 24C of the 1945 Constitution, which vests the tribunal with exclusive competence to review statutes against the Constitution, decide upon jurisdictional disputes between state organs, evaluate the dissolution of political parties, and adjudicate opinions on alleged presidential misconduct. Within this explicit constitutional mandate, the Court's decisions have definitive legal force. Unlike ordinary judicial bodies whose judgments affect only the litigants involved,

constitutional rulings generally apply with legal force, establishing authoritative interpretations of constitutional norms that bind the entire nation without exception.

Reinforcing this constitutional design, the statutory framework governing the tribunal makes every decision in constitutional review proceedings final and binding upon pronouncement. This final and binding doctrine eliminates any possibility of ordinary or extraordinary legal remedies against the Court's rulings. These decisions inherently carry an *erga omnes* effect, meaning their legal consequences extend across all tiers of government, state agencies, corporate entities, and individual citizens (Gandur et al., 2025). The doctrine's normative intent is unambiguous: once the constitutional arbiter declares a legal norm incompatible with the supreme law, that norm is instantly stripped of its validity, creating an immediate obligation for all state organs to adjust their behavior and legal frameworks accordingly. However, a profound doctrinal paradox emerges when these rigid normative requirements confront the fluid realities of political administration. While the constitution proclaims the absolute supremacy of judicial rulings, empirical state practice often reveals a systemic reluctance by political branches to fully implement these mandates. This tension exposes a dangerous vulnerability in constitutional design, where the formal finality of a judicial decision collides with lawmakers' pragmatic interests. Rather than treating constitutional rulings as insurmountable legal barriers, political branches often treat them as negotiable proposals rather than absolute commands, primarily because defying them carries no criminal consequences (Hager & Uribe-McGuire, 2024).

This structural friction is not an isolated domestic anomaly, but rather a recurring systemic symptom across comparative constitutional landscapes where executive aggrandizement and populist governance intersect. Comparative analyses of presidential and hybrid democracies demonstrate that state elites routinely exploit institutional gaps to neutralize judicial mandates. As broader cross-national inquiries on constitutional compliance in developing democracies show, formal legal provisions designating high court rulings as final and binding often fail to secure political obedience when governing coalitions operate under uncontrolled legislative dominance. Political actors across various jurisdictions systematically deploy subtle legislative maneuvers and administrative circumvention to bypass judicial rulings that obstruct dominant economic or political agendas. Across diverse global jurisdictions, the lack of penal sanctions and personal accountability for state officials who ignore judicial mandates creates a universal environment of institutional impunity, confirming that constitutional supremacy degrades into political supremacy whenever political branches operate without criminal deterrence.

Comprehending this systemic friction from a rigorous jurisprudential standpoint requires examining this phenomenon through Hans Kelsen's pure theory

of law, specifically his foundational framework of the Stufenbau, or hierarchical structure of legal norms. Kelsen posits that a legal system is not a chaotic aggregate of isolated rules, but a coherent hierarchy where each norm derives its formal and material validity from a superior norm located immediately above it, culminating ultimately in the foundational constitution or Grundnorm. Within this ordered pyramid, statutes enacted by the legislature must conform to constitutional parameters, and administrative regulations must likewise comply with statutory authorization (Woodson, 2015).

The Constitutional Court functions within this Kelsenian framework as a crucial negative legislator. When the Court exercises its power of judicial review, it removes unconstitutional statutes from the hierarchy, preserving the structural consistency and validity of the entire legal order. By invalidating norms that violate constitutional provisions, the Court ensures that the chain of norm validity remains unbroken, maintaining the supremacy of the constitution over ordinary political legislation. This doctrinal mechanism is indispensable for upholding the rule of law, as it prevents subordinate political actors from introducing valid legal rules that contradict the foundational compact established by the people.

When state institutions systematically disregard or selectively evade judicial rulings, a catastrophic normative fracture occurs within the Kelsenian hierarchy (Farinacci-Fernós, 2021). Institutional non-compliance in the absence of penal sanctions effectively breaks the chain of norm validity. If the DPR and the Government continue to enforce, replicate, or simulate norms the Constitutional Court has authoritatively invalidated, they disrupt the legal system's structural coherence. This institutional defiance introduces a state of normative anarchy disguised as legal procedure, where ordinary political preferences illegitimately override superior constitutional mandates shielded by absolute penal immunity (Farinacci-Fernós, 2021).

The consequences of this normative fracture extend far beyond mere procedural friction, fundamentally spoiling the character of the state. When supreme constitutional mandates can be ignored or circumvented without penal consequence, the hierarchy of norms collapses into a horizontal bargaining table. Political discretion displaces constitutional supremacy, turning the constitution from an immutable supreme law into an adaptable instrument seemingly intended to accommodate elite interests. Understanding this systemic breakdown requires looking beyond pure normativism and analyzing how political actors manipulate legal forms to achieve their objectives while evading criminal accountability (Leonard, 2024).

As direct resistance to judicial authority evolved, state institutions abandoned crude, outright defiance for more sophisticated, covert evasion mechanisms. This adaptive political strategy gave rise to the pervasive phenomenon of symbolic compliance. In contemporary constitutional politics, symbolic compliance is a

behavioral pattern in which state institutions appear as if they adhered to judicial rulings while deliberately withholding substantive implementation. It represents a calculated institutional strategy intended to appease public expectations of the rule of law while preserving the original political, economic, or administrative objectives the Court's ruling was intended to dismantle without risking penal prosecution.

The anatomy of symbolic compliance relies heavily on procedural manipulation. When confronted with a binding constitutional ruling that declares a statute conditionally constitutional or mandates a specific structural correction, non-compliant state actors engage in superficial legislative adjustments. They may alter the numbering of articles, modify peripheral terminology, or enact cosmetic amendments that mimic the external appearance of compliance without altering the underlying normative substance. This approach lets the legislature claim formal respect for the judiciary while covertly perpetuating the exact constitutional defects identified by the Court (Alabert & Farré, 2022). This behavioral pattern constructs a dangerous institutional illusion. By maintaining a superficial veneer of legal obedience, political actors shield their actions from immediate public scrutiny and judicial challenge. Citizens and civil society organizations are often misled by the formal enactment of new laws or regulatory revisions, assuming that institutional compliance has been successfully achieved. Beneath this legalistic facade, however, the citizens' substantive rights remain violated, and the core constitutional corrections ordered by the tribunal are systematically neutralized through legislative craftsmanship (Miyashita, 2021).

Normalizing symbolic compliance inflicts severe psychological and sociological damage on the constitutional order. When society observes that the highest judicial authority can be neutralized by superficial legislative theatrics, public trust in the judiciary erodes rapidly. The legal system loses its moral force, fostering widespread legal cynicism. Citizens begin to perceive judicial review not as an effective instrument of justice and constitutional protection, but as a hollow ritual that legitimizes the ruling political elite's pre-determined policy agendas (Botan et al., 2023).

Underlying the proliferation of symbolic compliance is a critical structural void in the national constitutional framework, namely the complete absence of explicit executorial mechanisms and enforceable penal sanctions for non-compliance. The Constitutional Court is constitutionally structured as a legal arbiter endowed with adjudicative authority, but it entirely lacks coercive enforcement powers. It possesses no police force, no administrative enforcement agency, and no independent capacity to physically execute its own judgments. The tribunal relies fundamentally on institutional good faith and the voluntary political will of the executive and legislative branches to ensure its rulings translate into practical reality (Nehring & Pivato, 2022).

This structural reality renders the Constitutional Court a classically vulnerable institution, often described in comparative jurisprudence as a weaponless branch. While traditional courts have executive bailiffs and enforcement officers to ensure the execution of civil and criminal judgments, a constitutional tribunal's primary litigants are the very sovereign branches of government that create and operate the state apparatus. When these political branches choose to withhold their cooperation, the Court is structurally powerless to compel compliance, exposing a profound institutional imbalance at the core of power separation exacerbated by the lack of criminal deterrence.

In Indonesia, such structural vulnerability is severely aggravated by the legislative silence about constitutional disobedience. Neither the 1945 Constitution nor the Constitutional Court Law provides an explicit legal mechanism to penalize state institutions or specific officials who ignore, delay, or subvert judicial rulings. No statutory provisions authorize administrative fines, criminal penalties, or institutional disqualifications for executive and legislative actors who fail to comply (Mongin & Ferey, 2022). This absence of penal sanctions creates an environment of absolute impunity, where ignoring a constitutional mandate leads to no institutional cost for political actors. Consequently, opportunistic non-compliance becomes a highly rational choice for lawmakers and executive officials during high-stakes political contestations. When a judicial ruling threatens dominant economic interests, coalition stability, or long-term legislative agendas, political actors calculate that the short-term benefits of evasion vastly outweigh the nonexistent legal risks of defiance. The absence of executorial enforcement mechanisms and strict penal policies transforms judicial review from an absolute constitutional control into a discretionary advisory process, reducing the guardian of the constitution to a marginalized spectator in the arena of realpolitik (Mitsui & Settepanella, 2023).

This systemic vacuum ultimately paralyzes the enforcement of constitutional justice. When legal obligations are treated as optional political guidelines, the constitutional state's foundational promise is severely compromised. To synthesize these complex theoretical and structural tensions systematically, the following analytical matrix contrasts the normative expectations of the legal paradigm with the empirical realities of the socio-political paradigm.

Analytical Dimension	Normative Legal Paradigm	Sociological and Political Paradigm
Conceptual Foundation	Constitutional Court decisions possess absolute normative validity and are strictly final and binding pursuant to Article 24C of the Constitution.	Judicial rulings operate within dynamic political environments where institutional compliance is

		dictated by power relations and elite interests.
Source of Institutional Friction	The structural absence of explicit executorial mechanisms and enforceable legal sanctions for non-compliance.	The dominance of pragmatic political alliances, economic pressures, and legislative avoidance strategies that override legal duties.
Empirical Manifestation	Inadequate legislative follow-up or superficial amendments that fail to satisfy the core constitutional corrections ordered by the Court.	Strategic political maneuvers, including expedited revisions and executive instructions, designed to bypass substantive judicial mandates.
Systemic Implications	Erosion of constitutional supremacy, legal uncertainty, and the collapse of normative hierarchy within the legal system.	Instrumentalization of law as a political tool, systemic delegitimation of the judiciary, and the rise of political supremacy.
Reconstructive Trajectory	Statutory amendments to the Constitutional Court Law to establish rigorous executorial mechanisms and legal sanctions.	Reforming legislative legal politics, enhancing institutional transparency, and strengthening public constitutional oversight.

Reconciling the tension outlined in this comparative matrix requires acknowledging that formal legal doctrines alone cannot guarantee constitutional compliance. When supreme legal norms are subjected to political calculation, the efficacy of judicial review depends on the broader institutional culture and the distribution of power within the state. Consequently, addressing the constitutional tribunal's structural vulnerabilities requires an analytical framework that goes beyond pure normativism and captures how political actors systematically use legislative procedures to neutralize judicial mandates.

Building on this theoretical foundation, the next section examines how these structural mechanisms operate in concrete political practice. By evaluating specific legislative strategies, executive countermeasures, and empirical case studies, the following section dissects how legislative avoidance operates in practice and its systemic consequences for the separation of powers.

Legislative Avoidance and Executive Defiance

In practice, Indonesia's constitutional democracy implements Constitutional Court decisions through complex political constellations and power configurations.

Law and politics cannot be treated as completely autonomous domains when examining legislative and executive behavior. As Butt and Murharjanti extensively document, national lawmaking is often driven by the commercial, institutional, and political vested interests of lawmakers and their political allies rather than strict adherence to judicial mandates (Butt & Murharjanti, 2022). When a constitutional ruling obstructs dominant political objectives or lucrative economic agendas, state institutions systematically deploy legislative avoidance and administrative circumvention shielded by complete institutional impunity.

These political dynamics manifest through competing interests among major political parties within the DPR, intense pressure from corporate and economic groups, and executive strategies designed to maintain policy and investment stability at all costs. Constitutional Court decisions requiring significant structural overhauls are frequently reframed as negotiable policy options. Rather than treating judicial rulings as supreme legal commands, legislative actors evaluate them pragmatically, calculating whether compliance aligns with short-term electoral incentives and coalition survival, knowing they face no criminal prosecution for disobedience (Aydin-Cakir, 2024).

The consequences of this political instrumentalization are vividly illustrated in the legislative handling of strategic judicial reviews. As observed across various natural resource and economic governance cases, lawmakers routinely engage in legislative pushback without fearing penal repercussions. When the Constitutional Court invalidates statutory provisions to protect constitutional rights or the public welfare, the legislature often responds by enacting new statutes that effectively revive the core norms previously struck down by the Court. This recurring legislative pattern indicates profound institutional contempt for judicial finality, turning the legislative process into an adversarial arena that nullifies constitutional corrections under the protective umbrella of penal immunity (Dressel & Bonoan, 2024). This systemic phenomenon is best exemplified by the empirical trajectory of Constitutional Court Decision Number 91/PUU-XVIII/2020 on the formal review of the Job Creation Law. The Court declared the omnibus statute conditionally unconstitutional due to severe formal defects in its formation process, explicitly mandating that lawmakers undertake a comprehensive corrective overhaul within a strict two-year period. Crucially, the Court ordered the temporary suspension of the law's binding force, prohibiting the issuance of new strategic or broad-impact policies based on the flawed statute.

The political branches responded to this historic mandate by engaging in profound procedural evasion. Instead of executing genuine substantive corrections or restarting a participatory legislative process, the DPR and the Government rushed to enact Law Number 6 of 2023 concerning the Stipulation of the Government Regulation in Lieu of Law concerning Job Creation. This legislative maneuver bypassed the core

constitutional corrections the tribunal demanded. Lawmakers utilized formalistic procedural adaptations to keep the normative structure of the omnibus law intact, confirming that executive dominance over the legislature readily subordinates constitutional authority to political expediency when penal sanctions are entirely absent (Dixon, 2024). Parallel to this legislative pushback, the executive branch deploys its own distinct mechanisms of administrative defiance. When judicial rulings impose operational restrictions on major economic policies, executive ministries frequently issue internal administrative instruments to counteract the Court's binding orders. This administrative circumvention is designed to maintain administrative continuity and investment flows without submitting to the normative constraints of constitutional adjudication (Garcia-Holgado, 2025).

A striking illustration of this executive countermeasure is documented in the immediate aftermath of Decision Number 91/PUU-XVIII/2020, where the Government issued the Instruction of the Ministry of Home Affairs Number 68 of 2021. This instruction explicitly mandated all regional governments to continue guiding and implementing the Job Creation Law and its derivative regulations, in direct contravention of the Court's explicit order suspending the law's legal force. Despite the judicial prohibition on issuing strategic policies during the suspension period, the executive promulgated Presidential Regulation Number 113 of 2021 concerning the Land Bank structure weeks after the ruling. These administrative actions demonstrate a systematic pattern of executive non-compliance intended to nullify judicial restrictions through bureaucratic fiat while escaping criminal accountability.

This dual-track resistance, legislative avoidance and executive defiance, creates severe systemic anomalies within the national legal structure. When administrative regulations and ministerial circulars override constitutional mandates, the traditional hierarchy of legal norms breaks down (Hager & Uribe-McGuire, 2024). Ministries operate in legal loopholes, producing conflicting regulations that increase legal uncertainty rather than resolving it. For instance, competing ministerial regulations on customary land recognition have severely obstructed the enforcement of constitutional protection for indigenous communities, perpetuating the exact administrative confusion that judicial reviews were intended to eliminate (Reayat, 2026). The judicial branch itself experiences internal friction when confronting this pervasive political non-compliance. Historically, the Supreme Court has shown notable inconsistency in recognizing and applying Constitutional Court decisions in general and administrative proceedings. While the Supreme Court has, in isolated instances, reversed its own precedents to align with constitutional rulings, many lower courts still ignore constitutional invalidations. This judicial fragmentation weakens the unifying authority of constitutional jurisprudence, leaving citizens

vulnerable to contradictory legal interpretations across different tiers of the court system (Gutmann et al., 2026).

These systemic failures stem from a structural imbalance of power between political institutions and the judiciary, aggravated by a profound penal policy void. Because the Constitutional Court lacks independent enforcement powers or prosecutorial backing, its authority is inextricably tied to the political will of the executive and legislative branches. When political actors prioritize short-term economic growth, capital investment, or coalition dominance over constitutional fidelity, the institutional safeguards of the rule of law are systematically sidelined. Law is thus transformed from an objective normative restraint on government power into an instrumentalized tool for political legitimization (Gutmann et al., 2024).

This pervasive instrumentalization of law inevitably triggers a profound crisis of institutional legitimacy. When the public observes that decisions rendered by the highest constitutional tribunal can be casually bypassed through executive instructions and superficial legislative revisions without triggering penal consequences, public trust in legal institutions erodes significantly. Sociologically, this persistent defiance fosters widespread legal anomie and institutional cynicism. Citizens see constitutional rights as secondary to elite political negotiations, eroding democratic accountability and constitutionalism (Leonard, 2022).

In its most extreme manifestations, this institutional disobedience creates severe political liabilities for the state leadership. As legal scholars and contemporary analyses have argued, the systemic refusal by executive officials to execute binding constitutional orders constitutes direct constitutional disobedience and contempt of court. Under extreme circumstances, such flagrant violations of supreme constitutional mandates provide theoretical and legal grounds for legislative bodies to initiate constitutional accountability measures, including presidential impeachment. However, even in the absence of such ultimate political sanctions, the continuous erosion of constitutional norms degrades the overall quality of democratic governance due to the lack of strict penal deterrence (Catalano, 2022). The accumulation of legislative avoidance, executive countermeasures, and judicial inconsistency culminates in a fundamental structural inversion of the state framework. Political supremacy effectively displaces the foundational principle of constitutional supremacy, which dictates that all state organs must submit to the supreme law of the land. In this inverted order, political discretion dictates constitutional meaning rather than constitutional norms restraining political power (Braman, 2021).

To reverse this dangerous systemic degradation, piecemeal regulatory adjustments or isolated judicial pronouncements are insufficient. Restoring the integrity of Indonesia's constitutional democracy requires a comprehensive paradigm shift in legislative legal politics anchored in robust criminal policies (Bartels et al.,

2023). Lawmakers and executive officials must abandon the instrumentalization of legal norms and recognize that constitutional compliance is an absolute precondition for a legitimate constitutional state. Strengthening the enforceability of Constitutional Court decisions requires profound structural reforms within the national legal system. This also requires embedding explicit executorial mechanisms and enforceable penal sanctions into the Constitutional Court Law to criminally penalize institutional non-compliance. Simultaneously, the legislative process must be subjected to rigorous transparency, meaningful public participation, and enhanced civil society oversight to insulate lawmaking from closed-room political collusion.

Only by integrating rigorous penal legal reform with political democratization can the Constitutional Court overcome its current vulnerability. Ensuring absolute institutional compliance with constitutional rulings will transform the tribunal from a symbolic arbiter into an effective guardian of the constitution. By securing this structural transformation, the legal system can permanently close the gap between normative finality and political reality, reestablishing the supreme authority of constitutional justice in national state practice.

CONCLUSION

This study demonstrates that systemic non-compliance with Constitutional Court decisions stems from the structural dominance of political interests over legal obligations, a condition deeply perpetuated by institutional impunity and the complete absence of penal sanctions. Empirical analysis shows that state institutions routinely replace substantive constitutional corrections with procedural maneuvers without facing criminal repercussions, as the legislative handling of Decision No. 91/PUU-XVIII/2020 concerning the Job Creation Law explicitly demonstrates. This operational reality exposes a critical normative fracture, displacing constitutional supremacy with political supremacy and reducing the constitutional tribunal to a symbolic arbiter dependent on political discretion.

Resolving this structural crisis requires an integrated reform strategy anchored in robust penal policy and direct institutional accountability. Revisions to the Constitutional Court Law must establish explicit enforcement mechanisms and enforceable criminal sanctions against non-compliant state organs. Insulating the legislative process through rigorous transparency, meaningful public participation, and robust civil society oversight transforms judicial compliance from an optional political choice into an absolute constitutional demand. Implementing strict penal deterrence alongside these democratic safeguards ensures that the tribunal functions as an effective guardian of the rule of law.

ACKNOWLEDGMENTS

The authors would like to express their sincere appreciation to Diponegoro University for providing an academic environment that supported the development of this research. The authors also acknowledge the institutional and professional insights that contributed to the examination of legislative avoidance, institutional impunity, and the absence of penal sanctions in Constitutional Court rulings. Special appreciation is extended to all parties who provided relevant assistance and support during the research and manuscript preparation.

REFERENCES

Alabert, A., & Farré, M. (2022). The doctrinal paradox: comparison of decision rules in a probabilistic framework. *Social Choice and Welfare*, *58*(4), 863–895.

Aydin-Cakir, A. (2024). The varying effect of court-curbing: evidence from Hungary and Poland. *Journal of European Public Policy*, *31*(5), 1179–1205.

Bartels, B. L., Horowitz, J., & Kramon, E. (2023). Can democratic principles protect high courts from partisan backlash? Public reactions to the Kenyan Supreme Court's role in the 2017 election crisis. *American Journal of Political Science*, *67*(3), 790–807.

Botan, S., de Haan, R., Slavkovik, M., & Terzopoulou, Z. (2023). Egalitarian judgment aggregation. *Autonomous Agents and Multi-Agent Systems*, *37*(1), 16.

Braman, E. (2021). Thinking about Government Authority: Constitutional rules and political context in citizens' assessments of Judicial, Legislative, and executive action. *American Journal of Political Science*, *65*(2), 389–404.

Butt, S., & Murharjanti, P. (2022). What constitutes compliance? Legislative responses to Constitutional Court decisions in Indonesia. *International Journal of Constitutional Law*, *20*(1), 428–453.

Catalano, M. A. (2022). Ex ante and ex post control over courts in the US states: court curbing and political party influence. *Justice System Journal*, *43*(4), 503–523.

Dixon, R. (2024). The new responsive constitutionalism. *The Modern Law Review*, *87*(4), 799–832.

Dressel, B., & Bonoan, C. R. (2024). Courts and authoritarian populism in Asia: Reflections from Indonesia and the Philippines. *Law & Policy*, *46*(3), 277–297.

Farinacci-Fernós, J. (2021). Constitutional courts as majoritarian instruments. *ICL Journal*, *14*(4), 379–397.

Gandur, M., Chewning, T. K., & Driscoll, A. (2025). Awareness of executive interference and the demand for judicial independence: Evidence from four constitutional courts. *Journal of Law and Courts*, *13*(1), 122–147.

Garcia-Holgado, B. (2025). Overruling the executive: Judicial strategies to resist

democratic erosion. *Journal of Law and Courts*, *13*(1), 274–303.

Gutmann, J., Metelska-Szaniawska, K., & Voigt, S. (2024). The comparative constitutional compliance database. *The Review of International Organizations*, *19*(1), 95–115.

Gutmann, J., Metelska-Szaniawska, K., & Voigt, S. (2026). Can new constitutions tighten the reins? The effect of constitutional change on constitutional compliance. *Public Choice*, *207*(1), 221–238.

Hager, L., & Uribe-McGuire, A. (2024). Judicial Guardians: Court-Curbing Bills, the Supreme Court, and Judicial Review. *Journal of Law and Courts*, *12*(2), 303–324.

Leonard, M. E. (2022). State supreme court responsiveness to court curbing: examining the use of judicial review. *Justice System Journal*, *43*(4), 486–502.

Leonard, M. E. (2024). Democratic Backsliding in the American States: The Case of Judicial Independence. *Publius: The Journal of Federalism*, *54*(3), 573–597.

Marzuki, P. M. (2019). *Penelitian Hukum* (Cetakan Ke). Kencana.

Mitsui, S., & Settepanella, S. (2023). A graph theoretical approach to decisions in social choice, law, AI: S. Mitsui, S. Settepanella. *Bollettino Dell'Unione Matematica Italiana*, *16*(3), 487–505.

Miyashita, M. (2021). Premise-based vs conclusion-based collective choice: M. Miyashita. *Social Choice and Welfare*, *57*(2), 361–385.

Mongin, P., & Ferey, S. (2022). Quelle importance empirique pour le paradoxe doctrinal? Une enquête sur la jurisprudence du Conseil constitutionnel français. *Revue Économique*, *73*(6), 1093–1118.

Mp, H. M. R. P., Adhistianto, M. F., & Nunna, B. P. (2024). Disobedience of Constitutional Court Decision as a Reason for Impeachment of President and Vice President. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, *24*(1), 70–85.

Mutia, A. (2022). *Perkiraan Pendapatan Produk Perawatan Diri dan Kecantikan di Indonesia (2014-2027)*.

Nehring, K., & Pivato, M. (2022). The median rule in judgement aggregation: K. Nehring, M. Pivato. *Economic Theory*, *73*(4), 1051–1100.

Reayat, N. (2026). Compliance with Supreme Court judgments in politically important cases by authoritarian and hybrid regimes: Lessons from Pakistan. *Asian Journal of Law and Society*, *13*(1), 132–171.

Rijadi, J. E. and P. (2022). *Metode Penelitian Hukum Normatif Dan Empiris, 2nd ed.* Prenada Media Group.

Tahir, R., Astawa, I. G. P., Widjajanto, A., Panggabean, M. L., Rohman, M. M., Dewi, N. P. P., Deliarnoor, N. A., Abas, M., Ayu, R. F., & Meinarni, N. P. S. (2023). *Metodologi penelitian bidang hukum: Suatu pendekatan teori dan praktik*. PT. Sonpedia Publishing Indonesia.

Woodson, B. (2015). Politicization and the two modes of evaluating judicial decisions. *Journal of Law and Courts*, *3*(2), 193–221.