



Integration of Constitutional Law and Human Rights: A Comparative Study between Indonesia and South Africa

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Abstract

The development of the relationship between constitutional law and human rights is fundamental in a rule of law state. Constitutional law is oriented towards regulating and simultaneously striving for the optimal protection of human rights. This research aims to examine the integration between constitutional law and human rights by conducting a comparative legal study between Indonesia and South Africa. This research is a normative legal study emphasizing historical, conceptual, legislative, and comparative legal approaches. The research findings indicate that the strengthening of human rights norms and the role of the Indonesian Constitutional Court have become crucial points, particularly the role and authority of the Indonesian Constitutional Court through its rulings aimed at protecting human rights. Similar developments also occurred in South Africa after the end of apartheid, with the establishment of the Constitutional Court and constitutional reforms as important steps in upholding the rule of law and human rights. The Constitutional Courts of Indonesia and South Africa both face issues such as weak implementation of rulings, political pressure, and slow legislative processes that accommodate the Constitutional Court's decisions. This research recommends that the integration of constitutional law and human rights should be optimized by strengthening the authority of the Constitutional Court, including the authority to ensure that Constitutional Court decisions are obeyed and implemented optimally to protect human rights.

Keywords: Constitutional Court, Constitutional Law, Human Rights.

A. INTRODUCTION

The development of law is an inevitable occurrence, especially in the context of increasingly dynamic societal development, which causes various aspects to evolve comprehensively (Sihombing, 2024). One of the fields of law that is experiencing massive development is constitutional law. Constitutional law, which is classified as a field of law with a public dimension, is indeed experiencing increasingly dynamic and massive developments amidst significant constitutional developments (Pujayanti et al., 2024). As with other areas of law, the development of constitutional law is also becoming increasingly evident, especially in the era of digitalization and technological advancement, where the study of constitutional law is expanding and striving to accommodate various aspects of society (Wardana et al., 2023).

One aspect that has also developed in the field of constitutional law is the study of constitutional law integrated with the study of human rights. Human rights are indeed a field of study that cannot be separated from the field of constitutional law. The relationship between human rights and constitutional law is also reinforced by A.V. Dicey's view, where human rights can be said to be the "substance or essence" of the rule of law, while constitutional law seeks to frame this "substance or essence" in the form of human rights (Edward, 2025). The important role of constitutional law in framing human rights is intended so that human rights can be protected, respected, guaranteed, facilitated, and simultaneously implemented by the state through public legal instruments, which in this case is constitutional law (Hasani & Halili, 2022). A more concrete view is presented by Durga Das Basu, where constitutional law is aimed at the instrumentalization of human rights so that the implementation of human rights

for society is more measurable and orderly, while human rights become the legitimizing basis for the regulations carried out by human rights (Dubey, 2023).

The development of constitutional law and human rights studies in the 21st century has indeed become two things that are difficult to separate (Fuad et al., 2022). Especially when in constitutional law there is an institution that serves as the final interpreter of the constitution in the form of a court (Adam Ilyas, 2022). The judicial institution as the final interpreter of the constitution can be either the Supreme Court or the Constitutional Court, depending on the constitutional system adopted by a country (Tanjung et al., 2020). However, substantively, whether a country uses the Supreme Court or the Constitutional Court as the final interpreter of the constitution, both reaffirm the interpretation based on human rights as an important effort in legal discovery to accommodate and protect human rights (Hikmah et al., 2024).

The integration of constitutional law studies and human rights has become one of the important aspects of the 21st century, especially for countries undergoing democratization efforts based on constitutional changes, such as Indonesia and South Africa (Farinacci-Fernós, 2021)(Iyer, 2019)(Sukmariningsih, 2021). Indonesia post-constitutional amendments, which took place four times from 1999 to 2002, actually resulted in several important provisions regarding human rights (Mendy, 2024)(F. P. D. Dicky Eko Prasetyo, 2021). The demand for the protection and enforcement of human rights became a major issue in the 1998 reform movement in Indonesia, which then became one of the foundations for the constitutional amendments in Indonesia. A similar experience also occurred in South Africa, where in 1994, South Africa was able to emerge from the discriminatory and human rights-violating apartheid political practices, particularly the right to equal status for every South African citizen to

participate in governance (Mubangizi, 2020). This indicates that the wave to free South Africa from apartheid political practices was fundamentally driven by the spirit of fulfilling and upholding human rights (Osman, 2024). Post-1994, South Africa initiated a new, more democratic system that accommodated human rights.

From the practices and experiences of Indonesia and South Africa mentioned above, it can be concluded that the integration of constitutional law and human rights is crucial and essential, especially for countries undergoing democratization efforts to build a better governance system. From the description above, this research aims to analyze two important legal issues, namely: (i) the relationship between constitutional law and human rights in Indonesia and South Africa in connection with efforts to establish a democratic rule of law based on the constitution, and (ii) the integration of constitutional law and human rights in Indonesia and South Africa, particularly in terms of the authority of constitutional courts, in this case, the Constitutional Court.

Research examining constitutional law and its integration with human rights has indeed been conducted by several previous researchers, including Szoszkiewicz (2024), who studied the role and authority of the Constitutional Court in its decisions that accommodate the universal development of human rights (Szoszkiewicz, 2024). Another study was conducted by Sales (2024), who examined the relationship and differences between constitutional values and human rights, both in terms of substance and impact (Sales, 2024). Further research was conducted by Suratno (2025) focusing on the dynamic relationship between constitutional law and social change from a global perspective, including the role of human rights in relation to the study of constitutional law or constitutionalism (Suratno, 2025). From the three studies mentioned above, there has yet to be research analyzing the integration of human rights

and constitutional law and its relation to the development of democratization in a country. This reinforces that this research is original because it has not been discussed and analyzed by the three previous studies.

This research is a normative legal study focused on the comparison of laws between Indonesia and South Africa concerning the integration of constitutional law and human rights as an important part of democratization efforts based on constitutional values. As a normative legal research, the primary legal materials in this study use legislation as the main subject of analysis, conducted comprehensively, particularly the 1945 Constitution of the Republic of Indonesia, which is the Indonesian constitution, the South African Constitution, and several other related regulations. Secondary legal materials in this research focus on the study of constitutional law and theories or concepts in the field of constitutional law, which are cited and analyzed from journal articles, books, and other research findings relevant to the legal issues being analyzed. Non-legal materials use a legal dictionary, in this case, Black's Law Dictionary. The collected legal materials are then analyzed with precision and comprehensiveness, emphasizing the aspect of prescription or legal solutions so that the legal issues presented are not only answered but also formulated into future legal recommendations (Rohman et al., 2024). The approach used in this research is a comparative legal, conceptual, legislative, and historical approach.

B. RESULT AND DISCUSSION

1. The Relationship Between Constitutional Law and Human Rights in Indonesia and South Africa: Efforts to Realize a Rule of Law Based on Constitutional Democracy

The development and dynamics of modern constitutional law are no longer understood merely as an instrument that regulates the relationships between state institutions in a static manner, but rather as a legal system that evolves dynamically in line with social, political, and technological changes, both at the national and global levels (Basri, 2024). Globalization, characterized by the openness of information, advancements in digital technology, and the intensity of international relations, has significantly influenced the governance of a country, including the development of constitutional law theories and practices (Koos, 2022).

This development demands a reinterpretation and reformulation of fundamental concepts in constitutional law, including the relationship of constitutional law with various other aspects, one of which is human rights (MacPherson et al., 2020). Amid the currents of globalization, the concept of constitutionalism, which was previously domestic in nature, is now beginning to enter the international realm, creating what is referred to as "global constitutionalism." Countries can no longer ignore the universal standards and principles that are developing at the global level, especially in terms of democracy, human rights protection, and the principle of the rule of law (Kryvytskyi, 2024).

The dimension of human rights is essentially universal, applying not only to every person wherever they may be but also to every country to implement the universal values of human rights (Gunawan & Permana, 2024). The universalization of human rights is what is then accommodated in the study of constitutional law, so that constitutional law in some of its substance is "universal and international" to accommodate human rights (Ni Made Diana Kencana Putri, 2023). This aligns with Karel Vařák's view that human rights, in their development, have a universal

dimension, thus requiring every country to acknowledge and implement universal human rights values (Domaradzki et al., 2019)(Shah & Sivakumaran, 2021). Although in its development, the universality of human rights encounters criticism and limitations in implementation, as stated by Joshua Preiss, who argues that human rights, as part of cultural development, inherently have several limitations such as cultural dimensions that cannot be imposed from one country to another (Muchlinski & Arnold, 2024). Therefore, from the differing views between Vašák and Preiss above, it can be concluded that although human rights values are universal in nature, their application involves a dimension of relativity, meaning that the development of human rights also requires a country's adjustment to the development of the universality of human rights.

Referring to the characteristics of the universalism-relativism of human rights mentioned above, constitutional law plays an important and dominant role because, in constitutional law, the constitution of a country is an important document, and it is in the constitution that the concept of human rights in a country is formulated, both its universal character and its relativistic dimension based on the values or ideologies adopted or practiced by that country (Sari et al., 2024)(Prasetio et al., 2025). Regarding human rights, at least, constitutional law has three important roles (Yunus et al., 2022): first, constitutional law serves as a means of constitutionalizing human rights, where the values and guarantees of human rights are clearly and explicitly stated in a country's constitution, which is the fundamental document analyzed and studied in constitutional law. Second, constitutional law serves as an important means to carry out the "filtering" and "relativism" of human rights, where cultural values, ideologies, and distinctive characteristics of a country need to be accommodated amidst the

development of human rights (Vatter, 2020). Third, constitutional law plays an important role in efforts to enforce human rights, especially when some aspects of human rights are constructed as constitutional rights of citizens, so that the constitutional rights containing the substance of human rights are then upheld by constitutional courts in a country (Sukmariningsih, 2021). From the three important roles of constitutional law related to human rights mentioned above, it has indeed affirmed that the study of constitutional law in the modern era, especially in the 21st century, always has relevance to human rights.

In this study, the development of the relationship between constitutional law and human rights is specifically examined through a comparative legal study between Indonesia and South Africa. Legal comparison is essentially a comprehensive study that compares the law in one country with that of another. Referring to Peter De Cruz's view, the main characteristic of comparative law is the effort to compare legislation and/or court decisions in one country with another country that has several similar aspects (Peter De Cruz, 2015). The same aspects to be used as the basis for legal comparison according to Michael Bogdan do not have to be related to the legal system, but can be on other aspects such as economic conditions, cultural similarities, and historical similarities between one country and another (Bogdan, 2019). In this study, the legal comparison between Indonesia and South Africa places more emphasis on the similarities in historical development in the relationship between human rights and constitutional law, where both Indonesia and South Africa are countries that have experienced the development of human rights in the process of democratization through constitutional changes.

The development of the relationship between constitutional law and human rights in Indonesia has indeed undergone a long evolution, which can even be traced back to the early drafting of the Indonesian constitution in 1945. The debate over the importance or lack thereof of formulating the substance of human rights in the Indonesian constitution was ultimately resolved with a compromise that included the formulation of guarantees for the rights to assemble and associate, including the freedom of expression protected by the state, specifically regulated by law (Andriawan, 2022). In further developments, the relationship between constitutional law and human rights in Indonesia became increasingly relevant during the 1998 reform era. The reform in 1998 was an important momentum for realizing democratization in Indonesia, one of the orientations and demands of the reform movement being to amend the Indonesian constitution. Constitutional amendments as a demand of the reform movement should be carried out because there are three important aspects of why constitutional amendments in Indonesia need to be made (H. W. Dicky Eko Prasetyo, 2022). The three important aspects are, first, the Indonesian constitution before the 1998 reform movement was the constitution enacted in 1945, which has many provisions that are no longer relevant to the times. Moreover, the Indonesian constitution enacted in 1945, which refers to Sukarno's view as one of the framers of the Indonesian constitution, was originally designed as a "flash constitution" (*revolutiegrondwet*) and, in its development, the Indonesian constitution enacted in 1945 should indeed be replaced or revised to accommodate the changes of the times (Kusuma, 2004)(Pulungan & Sardjono, 2021).

Second, the amendment of the Indonesian constitution as the orientation of the 1998 reform movement was to optimize regulations in the field of human rights. It can

be understood that the constitution in Indonesia, enacted in 1945, contains very few provisions regarding human rights or the constitutional rights of citizens. This can be understood because in 1945, World War II was still raging, and in some parts, the war had already ended, so it was still in a transitional phase where the concept of human rights had not yet been optimally accommodated. Moreover, in 1945, the countries of the world had not yet formulated a universal formulation of human rights, where the idea of formulating human rights universally was only accommodated in the Universal Declaration of Human Rights adopted in 1948 (Ahmad et al., 2025). In this context, the constitutional amendment as a mandate of the 1998 reform movement is fundamental, especially for adopting various human rights provisions so that they can be formulated in the Indonesian constitution after the amendment process.

Third, the amendment of the Indonesian constitution is essentially an effort to strengthen the human rights dimension in the constitution through the important role of judicial institutions. The amendment of the Indonesian constitution is oriented towards the establishment of a constitutional court institution, which is then known as the Constitutional Court. Although the authority of the Indonesian Constitutional Court in the 1945 NRI Constitution as a result of the amendment does not explicitly emphasize its authority in the protection of human rights, its various powers, such as judicial review of laws against the constitution, dissolution of political parties, resolution of state institution authority disputes, and disputes over election results, have indeed indicated the authority of the Indonesian Constitutional Court as the protector of human rights (Aditi et al., 2023)(A. I. Dicky Eko Prasetyo, 2022). From the three important aspects related to the amendment of the Indonesian constitution mentioned above, it can be concluded that efforts to strengthen and protect human

rights are crucial aspects of the amendment of the Indonesian constitution, both in the formulation of human rights norms in the constitution and in the protection and enforcement of human rights through the important role of the Constitutional Court.

As with the development of constitutional law and human rights in Indonesia, in South Africa, the development of constitutional law and human rights underwent significant changes after the end of the apartheid regime, which lasted from 1948 until the early 1990s. The apartheid system enforced very strict racial segregation, placing white citizens above other racial groups in all aspects of life, including political, economic, and social (Saka, 2024). After a long struggle led by figures like Nelson Mandela, the apartheid system was officially abolished between 1991 and 1994 (Narsiah, 2025). One of the important milestones was the first multiracial general election in 1994, which resulted in a democratic parliament and paved the way for the drafting of a new constitution (Faiz, 2019)(Nyane, 2023). The 1993 Interim Constitution served as the basis for the transition, followed by the 1996 Constitution of the Republic of South Africa, which is still in effect today and has been amended 17 times (H. W. Dicky Eko Prasetyo, 2022). This constitution affirms the principles of democracy, the supremacy of law, and the protection of human rights, and introduces a bicameral system of government and the Constitutional Court as the guardian of the constitution and protector of citizens' constitutional rights.

Referring to the development of constitutional law and human rights in South Africa mentioned above, there are indeed several similarities in the relationship between constitutional law and human rights in Indonesia and South Africa, namely: both are related to the momentum of constitutional amendments, one of whose orientations is the formulation of human rights norms, and both have institutionalized

constitutional courts, in this case, the Constitutional Court, as the protector of human rights for citizens in both Indonesia and South Africa. The difference lies only in the types of human rights violations that inspired the development of constitutional law and human rights, namely in Indonesia, it was more due to the lack of guarantee of civil and political rights during the New Order era, which led to the constitutional amendment efforts as part of the 1998 reform movement, whereas in South Africa, the development of constitutional law and human rights was inspired by the struggle of South African society to emerge from the apartheid system that once prevailed in South Africa.

2. Integration of Constitutional Law and Human Rights in Indonesia and South Africa: Authority and Role of the Constitutional Court Institutions

The integration of constitutional law and human rights studies cannot be separated from the role and authority of constitutional courts. Constitutional judiciary is a new phenomenon in the development of constitutional law where the court occupies an important position as the final interpreter of the constitution (Gede Widhiana Suarda et al., 2021). Hans Kelsen, as the designer of the world's first Constitutional Court, actually argued that the importance of the role of the constitutional court in this case is that the Constitutional Court is intended to affirm the constitution as the highest law in a country (Syofyan Hadi, 2022). As the highest law in a country, the constitution occupies the top of the hierarchy of legislation as outlined in the theory of the hierarchy of legal norms (Palguna, 2017)(Lailam & Andrianti, 2023).

Richard Albert also emphasizes that the role of constitutional courts in a country is important to ensure the realization of human rights, especially in the process of constitutional amendments (Albert, 2015). Constitutional judiciary, in Richard Albert's view, also serves to ensure that human rights in a country are guaranteed so that in various situations, the rule of law can still be implemented by protecting the values, principles, and norms of human rights in that country (Albert, 2019). A more comprehensive view regarding the role and authority of constitutional courts in safeguarding human rights, as articulated by Tim Lindsey, sees that the primary function of constitutional courts is to ensure that the supremacy of the constitution is broadly upheld and protected through court rulings (Tim Lindsey, 2018). Tim Lindsey also stated that the efforts of constitutional courts in protecting human rights can be carried out, among other ways, through the mechanism of constitutional review, where legal products in the form of laws agreed upon by the government and the people's representative institutions that have the potential to violate human rights can be reviewed by the judiciary (Mendy, Ousu, 2025).

Various views above essentially emphasize the importance of the role and authority of constitutional courts in protecting human rights. In practice, constitutional justice can be carried out by the Supreme Court or the Constitutional Court. Generally, in countries with a common law legal system such as India and the United States, the Supreme Court has the authority as the guardian of the constitution. In countries with a civil law system like Indonesia, constitutional adjudication is independently institutionalized in the Constitutional Court (Mendy, 2024). Regarding the authority and role of the Constitutional Court in upholding human rights, this is essentially a

form of integration between constitutional law and human rights. The Constitutional Court, as a constitutional court institution, has the primary function of protecting human rights within its jurisdiction. This indicates that the integration between constitutional law and human rights is essentially manifested in the role and authority of the Constitutional Court.

The Indonesian Constitutional Court has an important role and authority in protecting human rights through several main functions as stipulated in Article 24C of the 1945 Constitution of the Republic of Indonesia. The authority of the Indonesian Constitutional Court in protecting human rights includes the power of constitutional review, which aims to ensure that no regulations contradict the constitution, especially those that may violate human rights. Several decisions by the Indonesian Constitutional Court aimed at protecting human rights include: (i) Decision Number 30/PUU/2022, which stated that Article 83 paragraph (1) of the Human Rights Law is contrary to Article 28D paragraph (3) of the 1945 Constitution, which guarantees every citizen the right to obtain fair legal protection, (ii) Decision Number 98/PUU-XVIII/2020 which affirms the legal standing of the petitioner in advocating for their constitutional rights based on Articles 27 and 28C paragraph (1) of the 1945 Constitution, related to the protection of human rights, (iii) Decision Number 77/PUU-XIV/2016 which emphasizes the function of the Constitutional Court as the "guardian" of the constitutional rights of every citizen, including human rights, (iv) Decision Number 5/PUU-VIII/2010 which asserts the Constitutional Court as a judicial body that safeguards human rights as constitutional and legal rights of every citizen, (v) Decision Number 89/PUU-XIX/2022 regarding the review of Article 5 of the Human

Rights Court Law which rejects the request to expand the jurisdiction of the Human Rights Court to adjudicate serious human rights violations committed by non-Indonesian citizens. This decision emphasizes that the jurisdiction of the national human rights court only applies to Indonesian citizens. In addition to the five aforementioned rulings, the Indonesian Constitutional Court has also made several other rulings that substantively aim to uphold human rights, such as legal protection for workers, affirmation of rights for adherents of belief, and affirmation of constitutional rights related to elections.

Various decisions of the Indonesian Constitutional Court have indicated that the Indonesian Constitutional Court has an orientation to protect human rights through its rulings. However, in its efforts to protect human rights through its rulings, the Indonesian Constitutional Court faces several obstacles, including the weak implementation of its decisions. Even when a law or policy is declared unconstitutional for violating human rights, the government or relevant institutions often do not promptly follow up with the necessary policy or regulatory changes. The absence of a sanction mechanism for parties that ignore the Constitutional Court's decisions renders the protection of human rights ineffective. Another obstacle is that the Constitutional Court often faces political pressure from various parties, which can affect the independence and courage of this institution in making decisions that truly protect human rights. Another obstacle is that Constitutional Court rulings ordering changes or annulments of laws often encounter hurdles in the legislative process or the drafting of implementing regulations, making it difficult for the Constitutional Court's decisions to be fully implemented.

Just like in Indonesia, in South Africa, the Constitutional Court plays a role in protecting human rights. South Africa underwent an evolution from an exclusive apartheid system to an inclusive and progressive democratic constitution with the Final Constitution of 1996, as well as the establishment of the Constitutional Court. The development of human rights in South Africa became even more significant after apartheid, where the country took the path of national reconciliation through the establishment of the Truth and Reconciliation Commission (TRC) led by Desmond Tutu (Fatima Momodu, 2025). This commission played a crucial role in uncovering the truth about past human rights violations, providing an opportunity for both victims and perpetrators to testify, and promoting reconciliation without revenge. The 1996 Constitution also includes a strong Bill of Rights, guaranteeing civil, political, economic, social, and cultural rights for all citizens without discrimination.

Regarding the role and authority of the South African Constitutional Court in protecting human rights, it can actually be seen from several of its powers, one of which is the authority of constitutional certification directly regulated in the South African Constitution of 1996. If a province amends or changes its constitution, the draft text must first be submitted to the Constitutional Court for certification. The Constitutional Court examines whether the draft is in accordance with the principles of the national constitution, including human rights principles, before it is ratified and enacted at the provincial level. Additionally, in the landmark decision of *State v Makwanyane* (*S v Makwanyane*) by the Constitutional Court of South Africa, which abolished the death penalty (‘Nyane, 2023). This ruling affirms the right to life as a fundamental human right, rejecting the death penalty because it contradicts the

principle of human dignity and constitutional obligation. This ruling highlights the South African Constitutional Court's emphasis on the protection of human rights. In general, the Constitutional Court of South Africa serves as the guardian of the constitution, ensuring the protection of human rights through the review of laws and state policies to prevent violations of citizens' fundamental rights, particularly in the context of the right to life, equality, and social justice.

As in Indonesia, the Constitutional Court of South Africa also faces several obstacles in efforts to protect human rights, including the weak implementation of rulings where, even though a law or policy has been declared unconstitutional for violating human rights, the government or related institutions often do not promptly follow up with appropriate policy or regulatory changes, political pressure that affects the independence of the Constitutional Court of South Africa, and the resolution of serious human rights violations being more often carried out through non-judicial mechanisms such as the Truth and Reconciliation Commission (TRC). This shows that the Constitutional Court of South Africa is not always the main institution in handling serious human rights cases, so the protection of human rights is limited to the realm of constitutional law only.

From the above description, it can be concluded that the Constitutional Court of Indonesia and the Constitutional Court of South Africa both play a strategic role in protecting human rights through their constitutional powers, especially in reviewing laws that have the potential to violate the constitutional rights of citizens. In Indonesia, the Constitutional Court performs this function through the mechanism of constitutional review as regulated in Article 24C of the 1945 Constitution of the

Republic of Indonesia, with various rulings affirming the protection of legal, political, and civil rights. In South Africa, this role is strengthened through a progressive constitution and the existence of a Bill of Rights, as well as landmark decisions like *State v Makwanyane* which affirm the right to life. However, in both countries, the effectiveness of human rights protection by the Constitutional Court still faces serious challenges, such as weak implementation of decisions, lack of sanctions against non-compliance by the executive and legislative branches, and political pressure that can affect judicial independence. Additionally, in South Africa, the resolution of serious human rights violations is more often carried out through non-judicial mechanisms such as the Truth and Reconciliation Commission, which limits the Constitutional Court's scope in directly handling serious human rights cases. Thus, although institutionally the Constitutional Court holds an important position as a protector of human rights, this role has not been fully effective without systemic support from other state institutions and the strengthening of decision implementation at the practical level.

C. CONCLUSION

The development of the relationship between constitutional law and human rights in Indonesia shows a long journey that began with the formulation of the 1945 constitution. Initially, the protection of human rights in the constitution was still limited, but it then developed further, especially since the 1998 reform era, which became an important momentum in pushing for constitutional amendments. These amendments are based on three main reasons: the need to adapt the constitution to the times, the strengthening of human rights regulations, and the establishment of the

Constitutional Court as an institution to protect citizens' constitutional rights. In this context, the strengthening of human rights norms and the role of the Constitutional Court become crucial points in realizing a more democratic constitution that is responsive to citizens' rights. Similar developments also occurred in South Africa after the end of the apartheid regime, where constitutional changes and the establishment of the Constitutional Court became important steps in upholding the rule of law and protecting human rights. Although the contexts are different, both Indonesia and South Africa show a similar pattern of relationship between constitutional law and human rights, namely through constitutional reforms and the institutionalization of the Constitutional Court as the guardian of citizens' constitutional rights. The difference lies in the historical background: Indonesia is marked by the repression of civil and political rights during the New Order era, while South Africa is driven by the struggle to end the apartheid system. Thus, the relationship between constitutional law and human rights in both countries reflects a response to their respective socio-political dynamics that demand the guarantee of basic rights through constitutional instruments.

The integration between constitutional law and human rights shows that constitutional justice, particularly the Constitutional Court, plays a central role in ensuring the protection of citizens' fundamental rights. As an institution tasked with the final interpretation of the constitution, the Constitutional Court ensures the supremacy of the constitution as the highest law and simultaneously functions as a protector of human rights, through constitutional review mechanisms and rulings that affirm citizens' constitutional rights. This is clearly evident in various decisions of the Indonesian Constitutional Court that provide guarantees for legal protection, political rights, the rights of adherents of faith, and rights in the electoral process. Nevertheless,

the effectiveness of human rights protection by the Constitutional Court is often hindered by weak implementation of decisions, the absence of sanction mechanisms for decision violations, political pressure, and a slow legislative process. A similar situation occurs in South Africa, where the Constitutional Court plays a crucial role in upholding constitutional values and human rights following the end of apartheid. With the support of a progressive constitution and a strong Bill of Rights, the South African Constitutional Court has been able to issue important rulings such as the abolition of the death penalty in the case of *State v. Makwanyane*. However, the South African Constitutional Court also faces the same challenges, such as weak enforcement of rulings, political pressure, and limitations in addressing serious human rights violations that are often resolved through non-judicial mechanisms. Thus, the integration of constitutional law and human rights through constitutional adjudication in both Indonesia and South Africa is a vital component in upholding constitutional justice, although its implementation still faces various structural and political obstacles that need to be addressed to ensure the comprehensive effectiveness of human rights protection. This research recommends that the integration of constitutional law and human rights should be optimized by strengthening the authority of the Constitutional Court, including the authority to ensure that Constitutional Court decisions are obeyed and implemented optimally to protect human rights.

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