

Attaining Legal Certainty through Multicultural Perspective in Constitutional Court Law for Equal Citizen Standing

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ABSTRACT

The phrase of Indonesian citizen that quotes in Article 51 Paragraph 1 of Law Number 8 of 2011 about the Constitutional Court provides the widest possible opportunity for the Indonesian people to contest their rights. A Constitutional Court's judge as an Indonesian citizen has the same rights in filing a lawsuit regarding his legal interests related to the review of the Constitutional Court Law. This study contains two results. First, the right to file a petition is the right to file a lawsuit or petition to the Constitutional Court. However, in reviewing Legal Certainty in the second discussion, a Constitutional Court judge should be prohibited from reviewing the Constitutional Court Law as it violates Legal Principles, that a Judge cannot be a Judge for himself. From a multicultural perspective, every Indonesian citizen regardless of ethnic, religious or gender background has equal rights to file a judicial review petition to the Constitutional Court. This reflects the spirit of unity in diversity and equality contained in the 1945 Constitution. However, there still needs to be restrictions to avoid conflicts of interest. By upholding the principles of legal certainty and justice, the Indonesian judiciary system can realize the noble ideals of the nation..

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1. INTRODUCTION

Indonesia is a Constitutional State (Rechts Staat) and not a Power State (Macht Staat) as stated in the Indonesian Constitution. Thus, as a constitutional state, there is a principle of constitutional supremacy which is an implementation of the principles of limiting and separating powers that have been constitutionally regulated. The existence of an independent and impartial judicial principle to ensure equal protection under the law and guarantees of justice is an inseparable part of an ideal constitutional state, including strict sanctions and arrangements against rulers who abuse their power and authority (Asshiddiqie, 2017).

The Judiciary as a manifestation of a constitutional state is an inseparable part in the journey of the Indonesian state in the Constitutional Amendment. The Constitutional Court was born through the enactment of Article 24 Paragraph 2 and Article 24 c of the 1945 Constitution of the Republic of Indonesia in the third amendment. The main role and function of the Constitutional Court is as the guardian of the constitution to uphold the principle of constitutionality in the law in order to safeguard the constitution. Testing Laws as a way to safeguard the constitutionality of the law cannot be avoided in the Indonesian constitutional system, because the 1945 Constitution of the Republic of Indonesia firmly states that the legal system is no longer based on the supremacy of parliament, but rather the supremacy of the constitution (Palguna & Gede, 2008).

The Constitutional Court has the authority to review Laws relating to conflicts with the 1945 Constitution of the Republic of Indonesia through a mechanism called Judicial Review. If a Law is then found and decided to be not in harmony with the constitution, the Law as a legal product can be canceled and declared invalid by the Constitutional Court. Thus, Laws in Indonesia are always in harmony with the State Constitution (Mukti, 2001).

In the Procedure for Reviewing Laws against the 1945 Constitution of the Republic of Indonesia in the Constitutional Court, not everyone can be an applicant in submitting a judicial review petition to the 1945 Constitution. There are several requirements that need to be met to be considered an Applicant before the Constitutional Court, one of the most vital is the legal standing of the Applicant. Qualifications for submitting a judicial review petition to the Constitutional Court consist of formal requirements relating to the qualifications of the applicant as regulated in the Law, as well as material requirements relating to the constitutional rights and authorities of the applicant who feels disadvantaged by the enactment of the Law to be reviewed (Asshiddiqie, 2006).

Article 51 paragraph 1 of the Constitutional Court Law has expressly regulated the position of applicants or parties who can submit a Petition for Judicial Review of Laws to the 1945 Constitution, namely Indonesian citizens, or customary law communities as long as they still exist and are in accordance with the development society and the principles of the Unitary State of the Republic of Indonesia, or Public and Private Legal Entities or State Institutions. Based on the formulation of this article, there are four parties that can be qualified as applicants or those who have legal standing in submitting judicial review of Laws to the 1945 Constitution. The concept of a person or party in the MK procedural law is regulated specifically because of the strong correlation between rights, obligations, ownership and legal relations centered on the initial concept of person (Asshiddiqie, 2006).

In relation to the concept of person in the MK Procedural Law, it is also related to legal standing as an Applicant party in the Judicial Review of Laws against the 1945 Constitution. Legal standing is a situation in which a person or party has met the requirements to become an applicant in the judicial review of Laws due to a conflict with

the 1945 Constitution which raises a dispute in the Constitutional Court (Djohansyah, 2008). Mukti (2001) stated that the concept of legal standing for the applicant is a complex problem that requires further study, especially for individual applicants and traditional community units. This article raises a case approach to the Judicial Review Petition of Law Number 8 of 2011 concerning the Constitutional Court in 2013 which was registered in case Number 7/PUU-XI/2013 related to the appointment and inauguration of Constitutional Court Judges which must involve the House of Representatives. The petitioners in the Judicial Review of the Law are Zainal Arifin Hossein, S.H and Andi Muhammad Asru, S.H. (Ramdan, 2014)

Constitutional Court judges as citizens who feel disadvantaged in their legal interests in the Constitutional Court Law are parties who are possible to file a judicial review petition when referring to Article 51 paragraph 1 of the Constitutional Court Law. However, contradictions arise again regarding their position as Judges in the Constitutional Court, whether they then have legal certainty over the decisions being tested by the Petitioners as Constitutional Court Judges and how then the credibility of the Constitutional Court with the phenomenon that exists in a multicultural state? Thus in this case the researcher intends to examine from the perspective of legal certainty towards the legal standing of Judges submitting petitions for judicial review of the Constitutional Court Law to the 1945 Constitution.

The current research cannot be separated from previous studies to become differentiation and novelty related to the legal issues at hand. The first is a study by Irfan Nur Rahman, Anna Triningsih, Alia Harumdani W and Nallom Kurniawan from the Center for Research and Development of the Secretariat General and Registrar of the Constitutional Court of the Republic of Indonesia with the title, "Juridical Basis of Consideration for Customary Law Communities in the Process Testing Laws in the Constitutional Court" while the relevance to the current research is examining applicants for the legal standing they have and recognition before the law and society (Rahman et al., 2011). Furthermore, there is a study by Rahayu Prasetyaningasih entitled, "Constitutional Culture in Indonesia After the Existence of the Constitutional Court" at the University of Indonesia in 2011. Its correlation with current research is the role of the Constitutional Court as guardian of the constitution has a significant role in shaping constitutional culture in a multicultural country like Indonesia, public social views and their interactions with institutions like the Constitutional Court become complex studies considering there are collective subjective public views that can influence the implementation of the authority of the Constitutional Court (Arizona, 2011).

2. METHODS

In discovering the truth in a legal research, proper steps are taken using appropriate research methods so that the results achieve scientific truth. In writing a proper and focused Scientific Article, the research method used is a vital element and an obligation in achieving the goal of finding answers to the legal issues examined.

This Scientific Article uses a Juridical Normative or legal research type, which utilizes secondary legal materials in the form of regulations, legislation, legal theories, and opinions from legal scholars. This study uses normative research by conducting review and analysis of legal materials and legal issues correlated with legal developments and problems (Ali, 2021).

The approach used is a statutory approach, which is a study of the whole of the laws and regulations relevant to the legal issues already examined. The statutory

approach is carried out in the context of legal research for practical interests as well as legal research for academic interests (Susanti & Efendi, 2022).

In this article, a case approach is used on the Judicial Review Petition of Law Number 8 of 2011 concerning the Constitutional Court in 2013 which was registered in case Number 7/PUU-XI/2013 related to the appointment and inauguration of Constitutional Court Judges which must involve the House of Representatives. The petitioners in the Judicial Review of the Law are Zainal Arifin Hossein, S.H and Andi Muhammad Asru, S.H.

From a multicultural perspective, this research method seeks to incorporate diversity of perspectives by examining Constitutional Court decisions from various cases involving applicants with different ethnic, religious, gender and socioeconomic backgrounds. This is important so that the research results can represent the interests of all elements of Indonesia's pluralistic society.

3. RESULTS AND DISCUSSION

3. 1 The Meaning of Legal Standing for Constitutional Court Judges in the Petition for Judicial Review of Law Number 8 of 2011 concerning the Constitutional Court in a Multicultural Society

The Constitutional Court is a state institution formed after the 3rd amendment to the 1945 Constitution of the Republic of Indonesia. In the third amendment to the 1945 Constitution, provisions regarding the Constitutional Court are stipulated in Article 4 Paragraph 2 and Article 24C which states that in the Indonesian constitutional system the Constitutional Court has the function as guardian or custodian of the Constitution, so that the Constitution of the State of Indonesia is implemented in accordance with its function and fully respected by the state administrators as well as for Indonesian citizens. Article 1 Paragraph 1 of Law Number 8 of 2011 concerning the Constitutional Court states that the Constitutional Court is part of the judicial power which is domiciled and has functions related to special cases in the constitutional field, so that the Constitution of the Indonesian state is fully implemented responsibly, in accordance with the democratic will of the people (MD, 2002).

Legal certainty regarding the authority and position of the Constitutional Court is stated in Law Number 24 of 2003 concerning the Constitutional Court. This can be seen in the composition of the trial process at the Constitutional Court which consists of 9 Constitutional Court Judges with a composition of 3 Constitutional Court Judges nominated and elected directly by the President, 3 Judges nominated and elected by the House of Representatives after passing the feasibility and eligibility test conducted openly, and the other 3 were nominated by the Supreme Court. Regarding the Chairperson and Deputy Chairperson of the Constitutional Court, they are elected from the nine Constitutional Court Judges. The requirements to become a Constitutional Court Judge are strictly regulated in Article 24 letter C paragraph 5 of the 1945 Constitution which states that there must be good and unsullied personality and integrity, have citizenship traits, master the constitution and constitutional system and do not hold concurrent positions as State Officials (Siahaan, 2022).

Judges have been known in Islamic law as part of law enforcement and justice. A judge in language means a wise person in deciding cases, while according to sharia he is an official who carries out the judicial power task, namely a court official who is authorized by the head of state to resolve disputes (Hejazziey, 2015). Judges have

authority and responsibility which includes a series of tasks, obligations, characteristics and certain attitudes as law enforcement officers and justice. The judiciary has elements including (Murphy, 2016),

1. Judge, namely the subject who becomes the enforcer of justice or known as qadhi;
2. Laws are products of judges in the form of decisions in resolving disputes and breaking disputes;
3. Mahkum Bihi, namely something that is required by the Judge to fulfill both the rights of the plaintiff and the defendant;
4. Mahkum Alaih, namely someone who is sentenced for himself or someone who is decided to have an obligation to fulfill the lawsuit;
5. Mahkum Lahu, is the plaintiff who has an interest in fulfilling his rights;
6. Words and deeds that are granted or vice versa which refer to a decision.

Article 24C Paragraph 5 of the 1945 Constitution has mandated the function of Constitutional Court Judges as guardians or guardians of the Constitution, so that the Constitution of the State of Indonesia is implemented in accordance with its function and fully respected by state administrators as well as for Indonesian citizens. Thus, a Constitutional Court Judge is someone who carries a noble task. The role of Constitutional Court judges is in line with the Hadith of the Prophet Muhammad which was narrated by Ahmad and Arba'ah and validated by Ibn Khusaima and Ibn Hibban which means the following,

"There are three groups of judges, one group will enter heaven and the other two groups will enter hell. The group of judges who will enter heaven are judges who meet the requirements of intellectuality, professionalism and have good morals and decide cases properly and correctly in accordance with the guidance of Allah and His Messenger. While one group of judges who enter Hell are judges who have high intellectual/intellectual knowledge and professionalism, but they do not decide cases with the guidance of Allah and His Messenger but decide cases by their lust. And one more group of judges who will enter Hell are foolish judges, who do not have sufficient knowledge and do not have professionalism in their field of duty and decide cases with their stupidity." (Ardianti, 2022)

Judges have the freedom to make decisions as part of their duties regardless of government influence or other influences. Judges are the pillar and hope for seekers of justice. Judges are not only tasked with enforcing the law, but also exploring and understanding the values that exist in society correlated with concrete cases both against written and unwritten laws (Zulaikha, 2017). The Court in the Law is confirmed not to refuse to examine, adjudicate and take care of a case filed on the grounds that the law does not exist or is unclear. So judges as an element of the Court have an obligation to explore, follow and understand the legal values and sense of justice that live in society (Husni & Widayati, 2021). Associated with case studies in this article, the Constitutional Court judges have been right in not refusing to examine cases in register number 7/PUU-XI/2013, in accordance with what is in the Legislation. However, in giving decisions, the legal standing of the Petitioners and cases which are a judicial review of Law Number 8 of 2011 concerning the Constitutional Court, namely the legislation regarding the Constitutional Court judiciary itself should be considered.

Constitutional Court Judges have the authority to conduct Judicial Review or material review as a manifestation of one of the judicial power institutions. Judicial Review is a right granted to the Judiciary by law to test legal products. The test is aimed at finding out the truth of the legal norm which can be done through litigation or non-

litigation processes. The term Judicial Review emerges when the material review is carried out by an authorized judiciary institution, in this case the Constitutional Court of the Republic of Indonesia. The material review of laws conducted outside the judiciary cannot be called Judicial Review. The test right given to the Parliamentary institution as the legislator is called Legislative Review, and if the test is conducted by the government it is called Executive Review (Arter, 2006).

The material review by Constitutional Court judges of the legislative power and the executive power branch is a form of the principle of checks and balances adopted by the Indonesian state on the grounds that it is in accordance with the doctrine of the teachings on the division and separation of powers. Therefore, the authority to perform Judicial Review must remain inherent in the function of the Judge as the subject and not given authority to officials other than Judges (Arter, 2006).

In a Judicial Review petition, Legal Standing is one of the formal requirements that must first be met before it is examined materially against the legislation on the 1945 Constitution of the Republic of Indonesia. Legal Standing is a state where a person or party has met the formal and material requirements and therefore has the right to file a dispute or dispute petition or trial before the Constitutional Court (Haryono, 2008).

Legal Standing is an equivalent of the term *personae standi in Judicio* which means the right to file a lawsuit or petition before the Court. Sudikno Mertokusumo stated that there are two types of petitions that can be prosecuted for rights, the first is the existence of rights related to disputes or called Lawsuits where there are at least two parties that can also be called contentious justice. As for the subsequent claims for rights that have no dispute called petition, namely there is only one party called volunteer justice (Asshiddiqie, 2006; Murphy, 2016). Thus, petitions for judicial review of Laws to the 1945 Constitution, are claims for rights that do not contain disputes. For example, in customary law communities, there are formal juridical reasons as legal standing. Such rights may occur, for example, when the constitutional rights and/or authorities of indigenous peoples are harmed by the enactment of laws in accordance with Articles 51 and 60 of the Constitutional Court Law.

Related to legal standing, it needs to be correlated with the absolute requirement in submitting cases to the Constitutional Court, namely the existence of losses from the Petitioner arising from the enactment of a Law, the existence of interests that are actually protected by law, a causal relationship between loss and enactment of a Law that the meaning is that with the enactment of the Law arises loss for the petitioners, as well as the expectation of the decision from the Petition which is expected the loss can be restored and avoided so that the effect of the cancellation of a law or article in the Law, or verses in the Law, results in the loss can be avoided or restored.

Legal Standing or referred to as the right to sue is stated in the formulation of Article 51 Paragraph 1 of the Constitutional Court Law, the formulation of the article relates to the position of the Petitioner, where the petitioner is a person who feels that his constitutional rights or authorities have been harmed by the enactment of a legislation consisting of individuals Indonesian citizens, indigenous communities as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated in the Law, Public and Private Legal Entities or State Institutions.

Qualification of Petitioners who meet the requirements as specified raises the right to file a judicial review petition before the Constitutional Court. Legal Standing is a form of formal requirements that have been stipulated in the Law, thus the material

requirements, with the existence of constitutional losses resulting from the enactment of the Law. Constitutional Court judges as citizens who feel disadvantaged in their legal interests in the Constitutional Court Law are parties who are possible to file a judicial review petition when referring to Article 51 paragraph 1 of the Constitutional Court Law.

In addition to the Laws and Regulations, the requirements for legal standing are tighter based on the constitutional rights of the Petitioner in the Constitutional Court Decision Number 06/PUU-III/2005 and the Constitutional Court Decision Number 11/PUU-V/2007, namely the existence of constitutional rights granted by the 1945 Constitution of the Republic of Indonesia, the constitutional rights owned by the Petitioner are deemed to have been harmed by a Law being tested, that the loss in question is specific or special and actual or at least potentially which according to reasonable reasoning can be ascertained will occur, there is a causal relationship between loss and enactment of the Law requested to be tested, and the possibility that by granting the petition the alleged constitutional loss will not or will no longer occur (Siahaan, 2022).

Article 3 of Constitutional Court Regulation Number 06/PMK/2005 states that the legal subject in question is the one who indeed has the rights or authorities as referred to in the 1945 Constitution of the Republic of Indonesia, the constitutional rights and authorities concerned have indeed been harmed or violated by the enactment of the law or part of the law. questioned, the existence or emergence of harm or violation of rights and authority by enacting the Law or part of the Law in question, the existence of a causal relationship or causal relationship with the enactment of the Law in question, and if the petition is subsequently granted, the constitutional loss concerned can indeed be restored by canceling the Law in question (Subiyanto, 2013). Jimly Asshiddiqie stated that these five criteria must be met cumulatively, with the consequence that if they are not fulfilled, it is certain that the party concerned does not have legal standing in submitting a case petition to the Constitutional Court, Petitioners who do not directly suffer constitutional losses that are specific and actual from the law which is judicially reviewed in the Constitutional Court or at least potentially reasonable which can be ascertained will occur. So based on Article 51 Paragraph 1 of Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court, Jurisprudence for case decisions No. 006/PUU-III/2005 and 011/PUU-V/2007 concerning the requirements for legal standing based on the Constitutional Rights of the Petitioner (Siahaan, 2022).

The Legal Standing Point d'interet point di'actional Theory and Jimly Asshiddiqie's opinion regarding the criteria for Petitioners who have legal standing, In the Constitutional Court Decision Number 7/PUU-XI/2013, Dr. Andi Muhammad Asrun, S.H., M.H. is a former Assistant Judge/Expert Staff at the Constitutional Court and Dr. Zainal Arifin Hoesein, S.H., M.H. former Registrar of the Constitutional Court of the Republic of Indonesia based on Presidential Decree of the Republic of Indonesia Number 143/M of 2008 dated 19 December 2008 and was honorably dismissed by Presidential Decree of the Republic of Indonesia Number 19/M of 2011 dated 18 January 2011 (Purwendah). In the case at hand, the Petitioners felt disadvantaged by the enactment of Article 15 Paragraph 2 letter d of the Constitutional Court Law which states that they are at least forty-seven years old and no more than sixty-five years old at the time of appointment. According to the Petitioner, this provision is contrary to the principle of legal certainty and the right to be free from discriminatory treatment as referred to in the 1945 Constitution of the Republic of Indonesia, because the Petitioners feel that their rights as stipulated in Article 22 and Article 23 of the Constitutional Court Law are obstructed,

namely by occupying the position of Constitutional Court Judge for two terms and being honorably dismissed after the age of seventy years (2013).

Understanding the potential consequences experienced by the Petitioners associated with the constitutional rights of the Petitioners, and considering the position of the Petitioners as citizens with doctoral degrees in law and each having experience as assistant constitutional judges and registrars of the Constitutional Court, the Petitioners are likely to be appointed Constitutional Court judges at any time and their terms of office may also be extended. Thus, the Petitioners potentially suffer losses to their constitutional rights when in their future appointments, the Petitioners are over 65 years old, thus materially having legal standing in submitting the petition at hand (Ramdan, 2014).

In accordance with the provisions of Article 51 paragraph (1) of Law 24/2003 the Petitioners as individual Indonesian citizens, are harmed by the enactment of the norms that the Petitioners petition for review as will be explained below, namely in the principal case, due to the vagueness of Article 15 paragraph (2) letter d Law 8/2011 and its explanation only says "sufficiently clear", so that the petitioners' rights as stipulated in Article 22 and Article 23 Law 8/2011 and Article 28D paragraph (1) of the 1945 Constitution which will be fully described in the principal case are obstructed. Thus the petitioners can be qualified as having legal standing (legal standing) to submit the petition at hand (Safa'at, 2010).

The position of the Petitioners and their rights to submit petitions to the Constitutional Court are related to the manifestation of the implementation of the constitution by all citizens without exception, regardless of the positions they hold or the background of the person. The awareness to make a constitution is part of the legal awareness both on the substance of the law and the structure of legal enforcement that becomes the effective foundation of the law. The awareness to make a constitution requires efforts to cultivate the constitutional concept to all components of the nation regardless of the various cultural backgrounds they have. The awareness to make a constitution is part of a moral awareness which has three main elements, namely as follows (Mukhlis & Dwijono, 2023),

1. The feeling of obligation to carry out moral actions in accordance with the state constitution that is inherent in the heart of every citizen, whoever he is;
2. Rational because of its general application, and open to justification or denial;
3. Freedom, that every citizen on his moral awareness has the freedom to obey various laws and regulations that apply in the country including the state constitution.

Satjipto Rahardjo clearly states that the law does not just fall from the sky, but grows and develops in line with the growth of society, meaning that the law must always be related to the society wherever the law exists (Makmur). Basically, the law is not just a formulation on paper as stated in the form of legislation, but is studied as a phenomenon in people's lives that can be observed through the behavior of its citizens. When associated with culture, the law can be considered a cultural product, because legal products are products of human creation. Satjipto argues that the law is not a final scheme, but will continue to move in accordance with the dynamics of the times.

Multicultural society in Indonesia in its correlation with the law is interrelated with each other. In the author's opinion, the petition by Constitutional Court judges against the Law on the Constitutional Court before the Constitutional Court will cause turmoil in society. Law and society always have a reciprocal relationship, because the law comes as a means of escorting the community, working in the community, and being

implemented by the community. Emile Durkheim stated a functional relationship between law and society by classifying society into two, namely organic solidarity and society based. The modern concept of law as a means of achieving goals, means that modern law focuses on the utility of the law for society. If attention is then paid to the function of law to bridge society, it will be closely related to the interests possessed both by individuals and collectively (Makmur). This can be seen in the submission by the Petitioners in the decision at hand who have an interest and use the law as an escort.

3.2 Review of Legal Certainty on the Legal Standing of Constitutional Court Judges in the Petition for Judicial Review of Law Number 8 of 2011 concerning the Constitutional Court

Certainty refers to a definite state, provision or stipulation. The law should be definite and fair. Certainty is used as a direction for the realization of justice, because certainty is based on the act itself which must support an order that is considered reasonable. Certainty can only be achieved if it aims at justice, while justice can be implemented if the law can be implemented based on its function. Legal certainty can only be answered normatively, not sociologically. This is in accordance with the concept of law in the Indonesian state which adheres to a democratic system and upholds the values of justice that exist by firmly holding on to the principle of justice for all Indonesian people. As a democratic state, the concept of justice becomes vital and prioritized so that it can be felt by all elements of society who are the holders of power and sovereignty of the state (Ruman, 2012).

Hans Kelsen stated that law is a system of norms. Norms are statements that emphasize aspects of what should be or *das sollen*, by referring to several rules about what should be done. This norm points to human products and deliberate actions. Norms can take the form of legislation, which contains rules that are general in nature, these norms become guidelines for individuals to behave in social society, both in relationships with fellow individuals and in their relations with fellow communities, rules that are mandatory or obligatory in nature become the basis for restrictions on society in imposing or taking action against individuals. The implementation of these rules can lead to legal certainty. Rescoe Pound in his sociological jurisprudence thought affirmed that the life of the law lies in its implementation. Pound stated that the law is, "an ordering of conduct so as to make the good existence and the means of satisfying claims go round as for as possible with the least friction and waste" so that the application of the law is a technique for solving social problems (Zulfadli et al., 2017).

Normatively, legal certainty is a rule that is made and enacted with certainty, because it regulates something that is clear and logical. Clear means not causing doubt or hesitation and logically. Clear refers to the meaning of a regulation which becomes a system of norms with normal in, so that it does not conflict or cause norm conflicts. Legal certainty leads to the enforcement of law that is clear, fixed, consistent and consecutive whose validity cannot be influenced by subjective circumstances. Justice and certainty are not just moral demands, but factually are characteristic features of the law. Legal norms that are unjust and uncertain will become bad laws.

Utrecht stated that legal certainty can be interpreted in two senses, first the existence of rules that are general in nature so that individuals know what actions may or may not be taken and secondly the existence of legal protection for individuals from arbitrary government actions, because with the existence general rules individuals can find out what can be charged or done by the state against individuals (Syahrini, 1999).

The law is expected to provide direction in the process of social change and invite citizens to continuously reflect on finding their identity in the midst of social life together. This means that the law as part of the norm system should function as the conscience and direction of individuals and societies who are experiencing disorientation of values. The existence of law is expected to assure that human dignity is protected, guaranteed and upheld by society and the state (Husni & Widayati, 2021).

Initially, legal certainty was based on juridical dogmatic teachings based on positivistic schools of thought, where the law tended to become something autonomous and independent. Adherents of this kind of thinking state that the law is nothing more than a set of rules. The adherents of this flow give meaning that the purpose of law is nothing more than just ensuring legal certainty. Legal certainty can only be felt by the law itself, with its general nature of legal rules proving that the law does not aim to realize justice or benefit, but to achieve certainty (Djohansyah, 2008).

In Islam, the principle of Legal Certainty can be seen in the existence of God's Law which is the highest authority in the application of His clear law which is conveyed to the whole community to become a guide in the implementation of life. Allah's word in Surah Al-Qashash verse 59 which means: "And your Lord does not destroy the cities until He sends a messenger to its capital to recite Our verses to them; And We never destroy cities unless their inhabitants are doing wrong" means that the Messenger who was sent to recite the verses of Allah SWT can be interpreted as legal certainty by first providing provisions that have been regulated by Allah SWT before being given punishment when violated. This is in line with the provisions of every new Law that can take effect after it is promulgated in the State Gazette of the Republic of Indonesia (Alim, 2010).

Explicitly, the Constitutional Court's authority to review laws against the constitution is a constitutional review. In its implementation in Indonesia, and in various countries, constitutional review is based on a legal standing right that the law being reviewed has harmed the constitutional rights and/or authority of the petitioner for Constitutional Review. Formulation of rights and or constitutional authority is more related to the authority of state institutions that also have the right to request a constitutional review of laws in the event that a law is deemed to be contrary to the constitution which in this case concerns the authority of the petitioner state institution and constitutional rights are more closely related to guarantees of protection. Human Rights for Citizens (Iryani, 2017).

Mohammad Daud Ali also stated one verse which clearly regulates the Principle of Legal Certainty in Islamic Law, namely in Surah Al-Isra verse 15 which reads: "And We will not torment until We send an Apostle" Thus, legal certainty is clearly part of the principles of Islamic Law. In relation to a Constitutional Court judge who submits a Material Review Petition or tries a Law relating to the Constitutional Court, referring to the *Nemo Judex In Propria Causa* Principle (A Judge cannot become a Judge for himself) there is a conflict of interest which leads to legal uncertainty (Antari et al., 2019).

In case number 7/PUU-X/2013 there were two Constitutional Court judges who had dissenting opinions in providing legal standing to the Petitioners, namely Constitutional Court Judge Maria Farida Indrati and Constitutional Court Judge Harjono who considered that the Petitioners did not have legal standing, correctly the Constitutional Court should have rejected examining the substance of the case and stated that the petitioners' petition should not have been accepted or *niet ontvankelijk verklaard*. So it was inappropriate for the Constitutional Court to then have legal standing. In case number 7/PUU-XI/2013, the Constitutional Court should also exercise caution,

because by conducting a review of the term of office for the appointment of Constitutional Court judges for the second period, namely with an existing conflict of interest towards themselves (Siahaan, 2022).

Conflicts of interest always arise in the social life of multicultural societies. Each group has different customs, ideals and values of life, and often each group often assumes that their group has absolute truth claims. There then arises an "our people-foreigners" paradigm which gives rise to labels towards groups that lead to the manifestation of stereotypes with negative connotations. In the end it will lead to prejudice. . In case number 7/PUU-XI/2013, the panel of judges' policy in stating that there is legal standing for the Petitioners in the multicultural perspective will raise suspicions of bias and tarnish the reputation of the Constitutional Court Judges as guardians of the constitution in Indonesia.

By reading Article 51 Paragraph 1 of Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court as described in the Constitutional Court Jurisprudence in Case Decisions Number 006/PUU-III/2005 and 011/PUU -V/2007, the requirements for legal standing should be regulated by a stronger legal instrument. Legal certainty if it is associated with the position of Constitutional Court judges as Indonesian citizens as referred to in Article 51 of the Constitutional Court Law, then this theory of legal certainty should be directed at the formulation of article 51 of the Constitutional Court Law, to avoid any doubt about the opportunity to conduct judicial review of the Constitutional Court Law by the Constitutional Court judges themselves. Based on the *Nemo Judex Idoneus in Propria* Principle (A Judge cannot become a Judge for himself), Constitutional Court Judges are strictly prohibited from becoming petitioners in the judicial review of the Constitutional Court Law because it violates the legal principle *quo* (Winata, 2021).

The setting aside of the legal principle of *Nemo Judex Idoneus in Propria* (A Judge cannot become a Judge for himself) is the result of a comprehensive interpretive construction by the Constitutional Court judges. Because on the other hand the Constitutional Court adheres to an *Ius Curia Novit* principle which mandates providing solutions to legal problems submitted to it. Based on these rules, there is an obligation for the Constitutional Court to resolve constitutional issues submitted to it. The collision with the overall applied procedural principles requires harmonization in the Constitutional Court Procedural Law in Indonesia (Zulfadli et al., 2017).

Thus, it should be necessary to harmonize and harmonize the role of professional and intellectual judges with the judicial review of the Constitutional Court Law which is also formulated or revised regarding legal standing as referred to in Article 51 of the Constitutional Court Law, because there are multiple interpretations of the phrase "An Indonesian Citizen" which should at least be explained clear, firm and unambiguous limitations in their explanation.

4. CONCLUSION

Constitutional Court judges as citizens who feel disadvantaged in their legal interests in the Constitutional Court Law are parties who are possible to file a judicial review petition when referring to Article 51 paragraph 1 of the Constitutional Court Law. However, contradictions arise again regarding their position as Judges in the Constitutional Court, whether they then have legal certainty over the decisions being tested by the Petitioners as Constitutional Court Judges. Multicultural society in Indonesia in its correlation with the law is interrelated with each other. In the author's opinion, the

petition by Constitutional Court judges against the Law on the Constitutional Court before the Constitutional Court will cause turmoil in society. Law and society always have a reciprocal relationship, because the law comes as a means of escorting the community, working in the community, and being implemented by the community.

Based on the *Nemo Judex In Propria Causa* Principle (A Judge cannot become a Judge for himself), a Constitutional Court Judge should be strictly prohibited from becoming a Petitioner in the judicial review of Law Number 8 of 2011 concerning the Constitutional Court. So that harmonization of the role of Professional Judges regarding the material review of the Constitutional Court Law is needed so as not to cause a conflict of interest. It is also necessary to refine the phrase "Indonesian Citizen" in Article 51 of the Constitutional Court Law or at least in the Elucidation of the Article so as not to cause multiple interpretations and achieve clear, firm and unambiguous law.

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