

Urgensi kewenangan mengadili perkara pengaduan konstitusional (constitutional complaint) pada Mahkamah Konstitusi Republik Indonesia = The Urgency of giving The Jurisdiction over constitutional complaint to The Constitutional Court of Republic of Indonesia

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Abstrak

Skripsi ini membahas dua permasalahan: alasan mengapa Mahkamah Konstitusi Republik Indonesia perlu memiliki kewenangan untuk mengadili perkara pengaduan konstitusional; dan bagaimana seharusnya mengatur penambahan kewenangan tersebut. Hasil penelitian ini adalah: Mahkamah Konstitusi Republik Indonesia perlu mendapatkan kewenangan ini demi menjalankan prinsip negara hukum yang dianut Republik Indonesia, melindungi Hak Asasi Manusia, menegakkan supremasi konstitusi, menjalankan checks and balances, memenuhi esensi pendirian mahkamah konstitusi di dunia, menjalankan fungsi pengujian konstitusional secara utuh, dan secara empiris banyak kasus yang bersubstansi pengaduan konstitusional sudah diajukan ke Mahkamah Konstitusi Republik Indonesia; dan penambahan kewenangan tersebut hanya bisa dilakukan dengan amandemen undang-undang dasar.

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This thesis mainly discusses two problems: the urgency of giving the jurisdiction for constitutional court of Republic of Indonesia over constitutional complaint; and how the jurisdiction is supposedly given. This thesis concludes that: constitutional court should have jurisdiction over constitutional complaint in order to implement the principles of 'rule of law', protect human rights, uphold the supremacy of constitution, maintain checks and balances function, fulfill the essence of establishing constitutional court, and completely implement the function of constitutional review, and empirically there has been many cases in constitutional court of Republic of Indonesia that contain constitutional complaint substance; and the only way to give the jurisdiction to constitutional court of Republic of Indonesia is to amend the constitution.