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Abstract

Indonesia's recent democratic backsliding has been accompanied by the weakening of institutional checks and balances, the erosion of anti-corruption mechanisms, and the consolidation of oligarchic power. Within this context, judicial activism is often framed as a potential safeguard for democracy. Yet, the Indonesian judiciary's role remains deeply ambivalent. While judicial activism ideally entails a proactive defense of constitutionalism, rights, and public interest, in practice it has frequently reflected selective intervention and political accommodation. Landmark cases reveal that the judiciary has occasionally resisted authoritarian tendencies, but more often it has legitimized policies that undermine democratic principles, from weakening anti-corruption efforts to endorsing illiberal legislation. This paradox highlights a central dilemma: judicial activism in Indonesia is not inherently emancipatory, but contingent on the broader political economy of the courts, where judicial independence is constrained by political patronage, corruption, and elite capture. Consequently, rather than consistently serving as a bulwark against democratic decline, judicial activism can reproduce power asymmetries and provide a veneer of legality to undemocratic practices. This paper argues that while judicial activism retains the potential to counter democratic erosion, its transformative capacity remains fragile and limited without structural reforms that insulate the judiciary from political capture and strengthen civic engagement. Judicial activism, therefore, should be understood less as a guarantee of democratic resilience and more as a contested arena within Indonesia's broader struggle over law, power, and democracy.

Keywords: constitutionalism; democratic backsliding; judicial activism.



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1. INTRODUCTION

1.1. Background

The background section elaborates on the underlying reasons that justify the importance of conducting the research, literature review, or critical conceptual ideas to be presented in this journal, as well as the novelty introduced by the author.

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3. Theses or dissertations;³
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Pan Mohamad Faiz, "Perlindungan Terhadap Lingkungan Dalam Perspektif Konstitusi [Environmental Protection in Constitutional Perspective]," *Jurnal Konstitusi* 13, no. 4 (2016): 766–87, <https://doi.org/https://doi.org/10.31076/jk1344>.

¹ Pan Mohamad Faiz, "Perlindungan Terhadap Lingkungan Dalam Perspektif Konstitusi [Environmental Protection in Constitutional Perspective]," *Jurnal Konstitusi* 13, no. 4 (2016): 766–87, <https://doi.org/https://doi.org/10.31076/jk1344>; Abdul Munif Ashri and Syahwal Syahwal, "Potret Hukum Diskriminatif Orde Baru: Tinjauan Hukum Dan Politik Atas Diskriminasi Terhadap Eks Tahanan Politik PKI," *Jurnal Poros Hukum Padjadjaran* 4, no. 2 (2023): 221–43, <https://doi.org/https://doi.org/10.23920/jphp.v4i2.1070>; Bayu Dwi Anggono et al., "Interrogating the Legal Foundations of Digital Transformation: Balancing Economic Growth and Social Welfare in the Era of Disruption," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 8, no. 1 (2025): 191–211, <https://doi.org/https://doi.org/10.24090/volksgeist.v8i1.12211>.

² Bayu Dwi Anggono et al., *BPJS Ketenagakerjaan Aspek Politik Hukum, Kelembagaan, Aset Dan Kepesertaan* (Depok: Rajawali Press, 2021).

³ Freddy Harris, "Kedudukan Negara Sebagai Penyertaan Modal Dalam PT Persero: Pengubahan Ketentuan Yang Tidak Sesuai Dengan Prinsip-Prinsip Hukum Perusahaan," *Jakarta: Disertasi Program Pascasarjana Fakultas Hukum Universitas Indonesia*, 2007.

⁴ Rofiq Hidayat, "Terbit Perpres, KPPU Kebut Transformasi Kelembagaan," *Hukum Online*, September 13, 2024, <https://www.hukumonline.com/berita/a/terbit-perpres-kppu-kebut-transformasi-kelembagaan-lt66e41f3f0d999/>.



1.2. Research Problem

This section presents the research problem statement, formulated either in the form of questions or in paragraph form. The problem statement serves as the framework of thought that will guide the discussion in the subsequent sections.

1.3. Method⁵

This section outlines the operational framework employed by the author to address the research problem statement. It is important to avoid providing explanations of methodology, as this section is intended to describe the methods rather than the research methodology.

2. RESULT AND DISCUSSION

This section presents the research findings and discussion based on the analytical methods employed. The presentation of results and discussion may be supplemented with graphs, tables, or figures to provide further support. The structure of this section must refer directly to the research problem statement. The writing may also be organized under subheadings corresponding to the specific issues being addressed.

2.1. Subsections of Findings and Discussion

Sub-topic titles provide an explanation of the main issues to be discussed in the article, within the boundaries that have been determined in accordance with the research problem statement. They may be presented descriptively, and when necessary, authors may include supporting data such as tables, figures, or other visual materials, provided they are of clear resolution and easily readable.

Table 2.1. Agrarian Conflict in Indonesia, 2020-2024

Year	Number of Cases	Area (Ha)	Victims (Hh)
2020	240	624,000	135,000
2021	207	500,000	198,000
2022	212	1 juta	346,000
2023	241	638,188	135,608
2024	295	1.2 juta	67,436

Source: KPA Annual Report, 2020-2024

⁵ Metode penelitian digunakan jika naskah merupakan hasil penelitian. Kajian konseptual tidak perlu metode penelitian.



Figure 2.1. Number of Deaths in Agrarian Conflicts, 2015–2024



Source: KPA Annual Report, 2015-2024

2.2. Subsections of Findings and Discussion

2.2.1. Sub-Subsections of Findings and Discussion

3. CONCLUSION

This section presents the conclusion, written in paragraph form and directly referring to the research problem statement. Conclusions should not be presented in numbered lists or bullet points but must be expressed as a coherent narrative in paragraph form.

BIBLIOGRAPHY

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Journals

Anggono, Bayu Dwi, Rofi Wahanisa, Aulia Oktarizka Vivi Puspita Sari AP, and Septhian Eka Adiyatma. "Interrogating the Legal Foundations of Digital Transformation: Balancing Economic Growth and Social Welfare in the Era of Disruption." *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 8, no. 1 (2025): 191–211. <https://doi.org/https://doi.org/10.24090/volksgeist.v8i1.12211>.

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Harris, Freddy. “Kedudukan Negara Sebagai Penyertaan Modal Dalam PT Persero: Pengubahan Ketentuan Yang Tidak Sesuai Dengan Prinsip-Prinsip Hukum Perusahaan.” *Jakarta: Disertasi Program Pascasarjana Fakultas Hukum Universitas Indonesia*, 2007.

Internet

Hidayat, Rofiq. “Terbit Perpres, KPPU Kebut Transformasi Kelembagaan.” *Hukum Online*, September 13, 2024. <https://www.hukumonline.com/berita/a/terbit-perpres--kppu-kebut-transformasi-kelembagaan-lt66e41f3f0d999/>.



ACKNOWLEDGEMENT

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