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Street 14-G, Coral Town, Islamabad
Email: editor@jasss.pk, Website: https://jasss.pk

The incompleteness of Formal testing laws in Indonesia: comparative insights from Germany and the United States

Topan Yulia Pratama (Corresponding Author)

Faculty of Law, Brawijaya University, Indonesia

Email: topan_yp@student.ub.ac.id

Sudarsono

Faculty of Law, Brawijaya University, Indonesia

Herman Suryokumoro

Faculty of Law, Brawijaya University, Indonesia

Aan Eko Widiarto

Faculty of Law, Brawijaya University, Indonesia

Abstract

Justice and legal clarity are undermined by the Indonesian judicial system's omission of formal testing from the law. Constitutional Court rulings are inconsistent and legal goods lose legitimacy due to this issue, which includes a lack of regulations on the boundaries of legislative procedural legality, standards of evidence, and deadlines for submitting formal tests. The purpose of this research is to examine how the lack of formal testing affects legal certainty and justice, and to provide solutions to these issues via reconstruction. The research draws on descriptive and juridical-analytical techniques as well as normative legal methodologies. Based on primary sources like the Republic of Indonesia Constitution of 1945 and Law Number 24 of 2003 regulating the Constitutional Court, as well as secondary sources like scientific journals and worldwide comparative studies, this research seeks to understand the system of law in Indonesia. The purpose of this research was to find the best practices for formal testing systems that may be implemented in Indonesia by comparing those in the US and Germany. According to the study's findings, constitutional rights are less protected due to the lack of official testing laws, which leads to legal confusion. The regulations need to be rewritten with specific guidelines, high evidence requirements, and application due dates. To improve the efficacy and credibility of formal testing in Indonesia, it is suggested that the country adopt some of Germany's best practices, such as filing deadlines and the substantive approach in judicial review, similar to the US. The findings of this study will help make our country's justice system more open, honest, and responsible.

Keywords: Formal Testing, Legal Certainty, Reconstruction of Rules

1. Introduction

A basic problem in the legal system that has arisen in different scholarly discussions and judicial procedures is the gap between the law and formal testing (Brinks, 2003). Lack of clarity on both the normative and technical components of the law is a common obstacle to formal testing, which is essentially a way to evaluate a law's procedural validity. Both substantive and procedural justice are affected by the ramifications of legal ambiguity caused by this gap in

the law. Given this setting, familiarity with formal testing, its theoretical underpinnings, and the issues caused by the gaps in current legislation is essential (Indra, Saragih, & Muhtar, 2023).

To determine if the methods used to create a legislation adhere to the standards laid forth in the constitution is the primary goal of formal testing, a subset of constitutional testing (Razak, Muhtar, Rivera, & Saragih, 2023). The power to test legislation against the 1945 Constitution of the Republic of Indonesia is granted to the Constitutional Court under Article 24C paragraph (1) of that document, which governs formal testing in the Indonesian legal system (Pujayanti, Nugrahayu, Rahim, Muhtar, & Yassine, 2024). In particular, the goal of formal testing is to guarantee that all laws passed by the legislature adhere to democratic values and were crafted via an open and inclusive legislative process. On the other hand, there aren't always clear operational parameters in place, such as legislation or technical rules, to help with the adoption of formal testing.

Several key points highlight the law's incompleteness in formal testing in reality. First, there is a lack of defined criteria for what constitutes "legitimate procedures." There is still no clarity for the testing parties due to the phrase's abstract nature, despite its frequent use in legal papers and court rulings (Alston, 1984). Furthermore, there is no clear legislative framework concerning the admissibility of evidence in formal testing. For instance, when dealing with instances involving formal testing, the Constitutional Court often has to establish its own criteria for evidence and examination processes. As a result, the public loses faith in the legal system due to the inconsistent rulings that are issued.

A further area where the law is lacking is in its ability to adequately safeguard people's fundamental rights. For instance, rights to procedural fairness, openness, and participation in the legislative process are among the constitutional values that may be violated when legislation are drafted in a way that does not adhere to established rules. When civil society groups have tried to have laws overturned because they are harmful to the public interest, it has been difficult since the regulations aren't always clear enough. This means that harmful legislation with serious procedural flaws continue to impact society at large.

Lack of cooperation between the legislative and judicial branches is also shown by laws that are unfinished when subjected to official scrutiny. Lawmakers often disregard the significance of following the processes laid forth in the constitution and legislation. However, without explicit legislative direction, the Constitutional Court has difficulties in performing its supervisory role. One example is the lack of regulation around the time limit for submitting a formal review application subsequent to a law's passage. The question of whether an application is valid or has expired often arises in court as a result of this.

All the way from the national to the international level, this gap in the law has consequences. As the world moves toward a more globalized legal system, Indonesia must prove that it still believes in democracy and the rule of law. If Indonesia is unable to address the issue of legal incompleteness in formal testing, it might harm its reputation internationally, particularly in regards to its capacity to enforce laws and safeguard human rights. Many

foreign forums often criticize the Indonesian judicial system on this matter, claiming that it cannot provide fair justice for all parties involved.

To overcome this deficiency, it is crucial to follow the processes of legal rebuilding. Improving the system of rules that governs official examinations is an important first step toward reestablishing the law (Amin et al., 2023). The processes, evidence requirements, and validity limits of formal testing, for instance, need a distinct statute. Also, constitutional judges and their support personnel require specialized training, and the Constitutional Court as an institution has to do a better job of managing formal testing cases.

An further critical component of this restoration is bolstering the legal culture (Hadi, Iftitah, & Alamsyah, 2023). The significance of lawful legislative processes in achieving justice should be properly communicated to lawmakers, executives, and the public at large. Public campaigns, legal training, and raising legal literacy rates are all viable options for educating the public about the law. By working together in this manner, we can build a justice system that is open, inclusive, and responsible to everyone.

There has to be a more inclusive approach to legislation in order to solve the issue of incomplete laws in formal testing. One example is the need to include public input at every step of the legislative process. Legislative processes may be made more open and accountable with the help of civil society, academics, and other interested parties in the hopes of reducing the likelihood of procedural infractions.

The establishment of a more efficient system for monitoring the legislative process is also crucial. To ensure that statutory processes are being followed, one option is to establish an autonomous supervisory body. In order to bolster the formal review process, this institution might collaborate with the Constitutional Court to provide pertinent facts and information. It is believed that the gaps in formal review legislation may be more methodically filled with a robust system of supervision.

Transparency and extensive public engagement are cornerstones of Germany's legislative monitoring structure. Any legislation, or part of a law's creation, may be challenged in the Bundesverfassungsgericht (Federal Constitutional Court). There is a complex legislative process in Germany that the parliament must follow. Among these players is an impartial advisory group whose job it is to make sure that laws are based on democratic values. This reduces the lack of completeness in norms by making the system more open and responsible.

U.S. lawmaking is overseen by lower courts; nonetheless, the Supreme Court uses judicial review to determine whether a statute is unconstitutional. A system of checks and balances between the legislative and executive branches is often used to carry out the oversight mechanism in legislation. On the other hand, public hearings and lobbying are great ways for people to become involved in the legislative process, which helps make sure that laws are comprehensive and meet community needs. To lessen the legislative norm gap, these two methods show how important it is to have both public and institutional supervision.

Realizing legal clarity and genuine justice is the ultimate objective of all these endeavors. People will have more faith in the justice system and higher-quality legal goods as a result of

well-executed formal testing. Over time, this will help establish the political and legal frameworks that are essential for a nation's progress.

In light of the above, the purpose of this paper is to seek a response to the following question: (1) How does the lack of a comprehensive legislation governing formal testing impact equality and clarity in Indonesian law? and (2) How can we fill the current legal void by rebuilding the norms of formal testing?

2. Theoretical basis

Research on the gaps in formal testing legislation is informed by a number of important legal ideas. In the Pure Theory of Law, Hans Kelsen lays out why it's crucial for lower-level legal norms like laws to be consistent with fundamental norms or the constitution, which are the ultimate law (d'Almeida et al., 2013). The legitimacy and certainty of law may be undermined by gaps caused by deficient rules in this legal hierarchy structure. Since the Constitutional Court is responsible for protecting fundamental standards and making sure that all laws are passed in compliance with constitutional guidelines, this idea is significant in formal testing. In order to maintain fairness and credibility in the legal system, formal testing is essential when lower standards, like legislation, fail to meet fundamental standards.

Justice, according to John Rawls's theory of procedural justice, is conditional on both the result and the means by which it was arrived at (Jensen, 2020). Because it raises questions about the validity of the legislative process, procedural fairness is jeopardized when formal review is legally insufficient. This sometimes leads to legislation being put into effect despite the fact that they contradict people's constitutional rights, such the right to be transparent or to participate in the process of making laws. To evaluate how gaps in the law affect both procedural and substantive fairness, this theory offers a normative framework.

An essential premise for comprehending the power of courts to examine the legality of statutes is the notion of judicial review, which was first established in the 1803 decision of *Marbury v. Madison* (Waldron, 2022). As part of its official review process, the Indonesian Constitutional Court may check whether lawmakers are following the rules when it comes to democracy and the rule of law. When the rules of law that govern reviews are lacking, however, the courts often must resort to imaginative interpretations to fill in the gaps. Concerns over the scope of judicial power and the need for clearer guidelines to back up formal review are prompted by this.

Legal certainty, fairness, and usefulness are the three primary legal ideals introduced by Gustav Radbruch's philosophy of legality (Spaak, 2009). One of the cornerstones of the rule of law—legal certainty—is undermined by the law's inadequacy in formal examination. Uncertain criteria for determining the legality of legislative processes leave the door open to interpretation, which can lead to contradictory rulings. The public's faith in the justice system and the credibility of the judiciary are both threatened by this scenario.

Hans-Georg Gadamer's legal hermeneutics provides a relevant approach to addressing the ambiguity of norms in formal testing. Gadamer emphasizes that legal interpretation must take into account the historical and social context of the legal text.(Honecker, 1984). In practice, the Constitutional Court often uses teleological and systematic interpretation

methods to explain ambiguous norms. This approach allows the court to identify the original intention of the legislator while adapting it to the evolving needs of society.

An essential part of understanding the Constitutional Court's ability to fill voids in the law is the doctrine of judicial activism. When the court actively interprets or even creates new standards to solve gaps in law, this is called judicial activism (La Torre, 2015). In cases involving formal review, the Constitutional Court is often called upon to provide interpretative advice in cases when the norms that are already in place are insufficient. But this raises the possibility that the court would overstep its bounds, which would lead to discussions on the proper role of the legislature in constitutional government.

The United States' system of checks and balances teaches us a lot about how to keep lawmakers in check. To guarantee that all laws are transparent and accountable, this system has the legislative, executive, and judicial branches all keeping tabs on each other. In Indonesia, where public engagement in the legislative process is sometimes lacking, this idea takes on added significance when it comes to official testing. Legal goods should represent the hopes and interests of the community as a whole, according to the notion of public participation, which is why the public should be included at every step of the lawmaking process.

The theory of the rule of law (*Rechtsstaat*) stresses that the fundamental values of the rule of law—the supremacy of law, fairness, and legal certainty—are undermined by the fact that the law is imperfect (Bluntschli, Ritchie, Matheson, & Lodge, 1885). The Constitutional Court is entrusted with the duty of ensuring that legislation passed by the legislature are both legally sound and in line with constitutional principles within the framework of formal testing.

Last but not least, Satjipto Rahardjo's progressive legal theory stresses the need for a legal system that adapts to society (Rahardjo, 2006). Inconsistencies between the demands of a changing society and the current legal system are a common cause of legal incompleteness. The Constitutional Court may be a catalyst for change by taking a progressive stance on the law, which will make sure that norms in the law are up to par with current standards while also taking society and culture into account.

A solid conceptual framework for comprehending and resolving the difficulties of legal incompleteness in formal review is produced by the amalgamation of these ideas. Through the integration of these methodologies, research has the potential to greatly enhance the Indonesian legal system and guarantee that formal review upholds the constitution to its fullest extent.

3. Methodology

This study uses normative legal research with a comprehensive methodology to assess how legal incompleteness in formal testing affects legal certainty and justice in Indonesia (Marzuki, 2016). This paper examines how gaps in current rules effect Constitutional Court formal testing and devises strategies to rebuild the rules to fix these issues.

This study uses primary and secondary legal materials, including laws and regulations related to the Constitutional Court's authority to test laws based on the 1945 Constitution of Indonesia and legal literature, journal articles, and comparative studies of other legal systems.

This work addresses two key questions: how does formal testing law incompleteness effect legal certainty and fairness, and how may formal testing rules be reconstructed to overcome legal vacuum.

This research employs a normative descriptive technique to address the first issue statement, how imperfect legislation impacts legal certainty and fairness. This method explores formal testing as a way to assure constitutionality in lawmaking. This research examines how incomplete legislation, such as the lack of defined limitations on the legality of the law-making system, affects community legal certainty and justice. This research examines Constitutional Court rulings and comparative analysis of other legal systems to identify possible conflicts between justice and legal execution due to rulelessness.

To solve the second issue formulation—reconstructing formal testing norms to overcome legal vacuums—this work uses a juridical-analytical method. This method identifies legal and technological barriers to formal testing, such as proof standards, legislative procedural assessment criteria, and test submission deadlines. The Constitutional Court's involvement in providing consistent and progressive interpretation rules and the prospects for legal change via more explicit norms in relevant statutes are also examined in this paper.

This paper theoretically analyzes the influence of incomplete legislation in formal testing and proposes rule reconstruction using these two methods. The recommended rebuilding phases include creating detailed rules for the formal testing system, enhancing the Constitutional Court's institutional ability, and promoting legislative compliance via legal culture. This research should help make the Indonesian judicial system more fair and equitable.

4. Result and discussion

4.1. The Influence of Legal Incompleteness in Formal Testing on Legal Certainty and Justice in Indonesia

The Indonesian legal system suffers from formal testing law gaps. Formal constitutional testing evaluates how well the lawmaking process follows the constitution. Formal testing is authorized by Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which allows the Constitutional Court to evaluate whether laws follow constitutional procedures (Al-Fatih, 2017). Due to insufficient legal restrictions controlling methods, validity requirements, and formal testing systems, various hurdles arise in reality.

Relevant legal theory can explain this. In his Pure Theory of Law, Hans Kelsen stressed the hierarchy of legal standards, where lower norms must follow higher norms (Kletzer, 2018). In this setting, the law must follow the constitution. Formal testing ensures that lawmaking follows rules. Incomplete formal testing criteria make it impossible to test lower legal norms, causing legal ambiguity and eroding the law's legitimacy.

Gustav Radbruch's legality theory also sheds light. Radbruch lists legal certainty (Rechtssicherheit), fairness, and usefulness as law's key values (Morris, 2016). Lack of precise criteria in formal testing makes the legislative process impossible to objectively examine, affecting legal certainty. Thus, legislation may stay in force despite procedural flaws. Because law-harmed parties lack legal protection, justice is jeopardized.

Articles 20 and 21 of the 1945 Indonesian Constitution govern the Articles 20 and 21 of the 1945 Indonesian Constitution govern the House of Representatives and President's lawmaking process and President's lawmaking process (Mangesti, Ahmad, Muhtar, Ginting, & Sapiro, 2024). This line emphasizes legislative cooperation between the two institutions. This regulation does not address what happens if Articles 20 and 21 of the 1945 Indonesian Constitution govern the House of Representatives and President's lawmaking process clash and the President or if a procedural step is skipped. This uncertainty is widely debated in Constitutional Court formal tests. Law Number 24 of 2003 governing the Constitutional Court offers a legal foundation for formal testing, but it does not specify evidentiary criteria, examination processes, or application deadlines (Young, 2017).

These insufficient rules generate many practical issues. First, the Constitutional Court must establish its own legislative procedural validity standards since there are no defined limitations. Its choices are frequently inconsistent. The Constitutional Court sometimes uses administrative papers like meeting minutes and permission paperwork to determine a law's legality, but sometimes it doesn't. Inconsistency produces legal confusion and damages public faith in courts.

Second, the lack of a defined review application deadline generates confusion. Long-standing laws may be tested without defined regulations. This may cause legal instability, particularly if the Constitutional Court overturns a legislation that has guided public policy for years.

Third, formal testing legislation incompleteness affects justice implementation. John Rawls' procedural justice theory bases justice on both the outcome and the process. Due to legal vacuum, legislative process testing is impossible, making procedural fairness problematic. This is problematic, particularly if defective laws are implemented and damage specific populations.

Incompleteness of this statute shows shortcomings in democracy and rule of law protection. Lack of transparency or participation in the legislative process diminishes the legitimacy of the produced law, which violates democratic values. Over time, this may erode public faith in the judicial system and governmental institutions.

Law gaps in formal testing affect international relations. Indonesia is required to uphold democracy and law enforcement in the age of legal globalization. In international forums that promote human rights and the rule of law, Indonesia's failure to close this legal gap might hurt its reputation.

Formal testing parameters' ambiguity is a major issue. Due to the absence of specific legislation or implementing rules, "legitimate procedure" in formal testing is typically interpreted differently. The Constitutional Court may evaluate legislation against the 1945 Constitution of Indonesia under Article 24C paragraph (1), although it does not specify how to do so. Law Number 24 of 2003 concerning the Constitutional Court, which should guide implementation, fails to clarify the criteria that may be utilized to establish the constitutionality of the law-making system (Martitah, Hidayat, Anitasari, Rahman, & Aini, 2023). Due of this uncertainty, the Constitutional Court has extensive latitude for

interpretation, which frequently results to inconsistent outcomes. Administrative documentation like meeting minutes are used by the Constitutional Court to determine the constitutionality of a process in certain situations but not others. This contradiction causes legal ambiguity, which damages the public, the principal legal product consumer.

Legal gaps in the standard of evidence are also issues. The Constitutional Court routinely reviews the burden of proof and the sort of evidence allowed to evaluate lawmaking procedures. Due to unclear instructions, the Constitutional Court must establish its own evidence evaluation method. This flexible approach is inconsistent and opaque, leaving application parties unsure. Sometimes the Constitutional Court accepts written records as main evidence, while sometimes comparable papers are insufficient without supplementary proof. This ambiguity lowers public faith in the judiciary and suggests that judges' subjective interpretations might impact formal review findings.

Lack of a formal review application deadline is another issue. To settle objections to the law-making process quickly, a legal system should require formal review within a specific timeframe after a legislation is passed. There is no time restriction for official review applications in Indonesia, therefore they may be submitted years after the legislation is passed. Legal instability results from this uncertainty since the Constitutional Court may overturn a long-standing legislation for procedural violations. This affects legal policy and generates confusion for the public and government institutions who must adapt to unforeseen legal developments.

Laws that fail formal scrutiny reveal legislative system flaws. Indonesia's legislative process is typically rushed and ignores democratic norms like public engagement and openness. Laws often bypass civil society, academia, and legal experts. Formal review becomes crucial to guarantee legislative processes conform with constitutional norms. However, insufficient formal review standards restrict the Constitutional Court's supervision role. Therefore, many procedurally faulty legislation are nonetheless passed, harming the community.

This imperfect legislation affects justice. John Rawls' procedural justice theory states that justice is defined by both the ultimate outcome and the procedure utilized to attain it (Edmundson, 2017). Due to legal vacuum, legislative process testing is impossible, making procedural fairness challenging. This is particularly problematic if the defective legislation regulates sensitive subjects like human rights, free expression, or natural resource management. Formal review should safeguard people's constitutional rights in such cases. However, poor formal review norms prevent this role from being effective.

Incomplete formal testing laws affect the credibility of the judicial system. Hans Kelsen's legal theory bases law legitimacy on norm conformity. When laws are formed without proper processes, their legitimacy might be questioned, even if their content is not objectionable (Stewart, 2023). The validity of the legislation and public faith in the legal system are weakened when the Constitutional Court cannot perform formal review owing to a legal vacuum. Over time, this may erode the rule of law, a cornerstone of democracy.

The inadequate formal testing legislation also affects international relations. In the age of legal globalization, Indonesia must show its commitment to democracy and law. In

international forums on human rights and law enforcement, Indonesia's unwillingness to close this legal gap might hurt its reputation. Many nations employ formal testing to evaluate their legal systems. If Indonesia cannot overcome this issue, the world community may criticize it and harm its position in international discussions.

Comprehensive strategic efforts are required to fix this. Reforming formal testing laws is crucial. Updated rules should clarify legislative processes, evidence criteria, and application deadlines. Furthermore, the Constitutional Court must strengthen its institutional ability to better manage formal tests. The Constitutional Court requires consistent and progressive interpretation rules to guarantee its rulings reflect constitutional values. Legal culture must also be strengthened to solve this issue. To develop a fair and equitable legal system, the people must be informed about legislative processes.

The Indonesian legal system struggles with formal testing law gaps. Uncertainty about legislative processes, validity limits, and evidence techniques hinders formal testing and legal certainty and justice. It is anticipated that the Indonesian legal system can better meet society's demands and current difficulties by developing the regulatory framework, institutional capacity, and legal culture. This is crucial to legal clarity, fairness, and the credibility of the Indonesian legal system at the national and international levels.

4.2. Steps Can Be Taken To Reconstruct Formal Testing Rules To Address Existing Legal Loopholes

Indonesia's insufficient formal testing legislation threatens legal certainty and fairness. Reconstructing the regulations to address legal loopholes and improve formal testing in Indonesia is necessary to solve this challenge. Comprehensive rebuilding must include amending laws, strengthening institutions, following international standards, and adopting foreign best practices. Thus, formal testing may better ensure Indonesia's legislative process follows constitutional standards.

Reforming the legislative framework, specifically Law Number 24 of 2003 on the Constitutional Court, is necessary to reconstruct formal testing criteria. In this statute, formal testing regulation is still generic and does not specify legislative procedural validity, evidence criteria, or testing mechanisms. To fix this problem, the Constitutional Court must precisely define its criteria for evaluating legislative proceedings (Eddyono, 2019). Such factors may include legislative transparency, public engagement, quorum in decision-making, and legislative timeline.

The amended legislation should also address formal testing proof standards. In reality, the Constitutional Court struggles to decide what evidence is appropriate to evaluate legislative proceedings. Thus, explicit procedures for submitting meeting minutes, administrative papers, and witness testimonies are essential. Formal testing must be impartial and consistent to produce judgments that satisfy all parties under this level of evidence.

The legislation should also include the official review deadline. Lack of a deadline for applying is a shortcoming in Indonesia's formal review procedure. Therefore, long-standing legislation may be reviewed for legitimacy. Legal instability harms the public who rely on the

law. The German procedure, where formal review may only be presented within three months after the law's passage, can solve this difficulty. This strategy gives legal clarity and encourages parties to intervene immediately if they believe legislative process has been breached.

The Constitutional Court's institutional competence must be strengthened throughout formal review rule reformation. The Constitutional Court must have sufficient resources to evaluate legislation. This involves expanding constitutional judges, support personnel, and technology infrastructure for difficult cases. The Constitutional Court must also establish consistent and progressive interpretation criteria to ensure its rulings reflect constitutional values.

The German formal testing system, mandated by the Grundgesetz, is one of the greatest models for assuring legal clarity and fairness by assessing legislative proceedings. Formal testing in this system is supported by explicit criteria and operational rules (Johns, 1950). This allows formal review in Germany to effectively react to legal objections and ensure constitutionality in lawmaking.

German formal testing is regulated by Articles 76 to 82 of the Grundgesetz, which details the legislative process. A draft legislation is submitted by an authorized entity such the Federal Government, Bundesrat, or Bundestag to start the legislative process. There are precise rules for every step of the legislative process, from proposal to approval and ratification. Article 78 of the Grundgesetz states that a draft legislation is accepted if the Bundestag and Bundesrat approve it, either of which may comment or reject it. Failure to complete one of these phases might lead the Federal Constitutional Court to invalidate the legislation (Kogel, 2016).

This official review involves the German Federal Constitutional Court. The Federal Constitutional Court, the highest constitutional court, may determine whether legislative proceedings follow the Grundgesetz. The Constitutional Court employs explicit and quantifiable conditions, such as quorum, hearing time, and legislative openness, to do its role. This provides impartial formal assessment without prejudice that might erode public faith in the court.

A major benefit of the German system is its high evidence standards. The Federal Constitutional Court only considers objectively verifiable evidence in formal reviews, such as meeting minutes, administrative papers, and data-backed claims. This high level of evidence ensures that every decision is founded on trustworthy facts and is valid and acceptable to all parties. This standard ensures procedural fairness and legal clarity for stakeholders.

Germany similarly restricts formal review application time. The Grundgesetz requires official evaluation within three months after bill passage. This safeguard prevents legal instability from long-standing law repeal. This time restriction encourages parties that feel disadvantaged by the legislative process to raise objections early so legal issues may be handled quickly.

Public participation in legislation is another benefit of the German system. Public engagement helps ensure that legislation represent community interests. Formal testing also assesses public engagement in the legislative process. If the legislative procedure does not include the public enough, the Federal Constitutional Court may nullify the statute.

The early 2000s judicial review of the Federal Telecommunications Act is a good illustration of how the formal review system in Germany works. In this instance, the Federal Constitutional Court said the legislation was unlawful because it violated the Grundgesetz's legislative processes, particularly addressing quorums in decision-making sessions (Islam, Kwak, Kabir, Hossain, & Kwak, 2015). This ruling illustrates how defined limitations and rigorous evidence requirements may secure constitutionality in the legislation.

The German system also teaches Indonesia how to blend flexibility and legal clarity. Germany has created a legal system that adapts to societal change without compromising legal principles by carefully managing legislative processes and formal testing. Setting defined criteria, strong evidence requirements, and tight time restrictions may boost the formal testing procedure in the Indonesian legal system.

Judicial review in the US has established a worldwide paradigm for formal testing, with a solid basis in *Marbury v. Madison* (1803). As Chief Justice John Marshall led the Supreme Court, the court developed the core idea of judicial review, which allows the court to examine a law's legality against the US Constitution (Stubbs, 2012). Formal review in the US, in which courts evaluate a law's legitimacy and constitutional implications, was established by this judgment.

In formal testing, US judicial review includes substantive and procedural analysis, making it unique. In procedural matters, judges evaluate whether the statute followed Constitutional processes. The courts will consider whether the legislative process satisfied quorum requirements, if both houses of Congress approved the statute, and whether the President signed it. Courts may invalidate laws if these processes are violated.

However, US official review goes beyond procedure. This method also examines the law's constitutional rights effects. If a statute violates Bill of Rights values like freedom of expression, religion, or discrimination, the court may nullify it even if its formation was legal. The court may check that each statute follows legislative processes and Constitutional principles using this technique.

In 1954, the Supreme Court overturned a legislation that separated public schools via a legal legislative process in *Brown v. Board of Education*. The court ruled that racial segregation violated the 14th Amendment's Equal Protection Clause (Hanushek, Kain, & Rivkin, 2009). This case highlights how substantive judicial review may preserve constitutional rights and promote justice, even by overturning a statute that has gone through formal processes.

In *Roe v. Wade* (1973), the Supreme Court ruled that a state abortion restriction violated the Constitution's right to privacy. This court reviewed whether the statute was passed procedurally and its influence on individual liberty (Vinekar et al., 2022). This substantive approach allows courts to examine the legislation based on Constitutional ideals, protecting fundamental rights.

The US formal review system considers public engagement and openness in legislation. Courts often assess whether civil society and non-governmental groups were involved in the legislation process. The legislation should represent community interests, thus this

engagement is crucial. If the legislative process was secretive or without public input, the court may nullify the statute.

The US judicial review system is flexible enough to handle social and political developments. This method allows courts to adapt Constitutional interpretation to changing times. In *Obergefell v. Hodges* (2015), the Supreme Court found that the same-sex marriage prohibition violated the 14th Amendment's Equal Protection Principle (Capizzo, 2020). This judgment shows how courts may utilize substantive law to accommodate evolving societal ideals, even if it means overturning majority-supported statutes.

The US method may improve formal review in Indonesia. Formal review in Indonesia focuses on procedural issues rather than the substantive effect of legislation on constitutional rights. The Indonesian Constitutional Court can analyze how laws affect the 1945 Constitution's basic values of human rights, social justice, and popular sovereignty by adopting a substantive approach like the US.

However, this technique needs a legislative framework change in Indonesia, including more explicit limitations on the Constitutional Court's competence to undertake official reviews. To conduct substantive analysis objectively and on clear principles, constitutional judges and support personnel must be strengthened. Improved public education is needed to enhance public engagement in the legislative process so that legislation reflect community objectives.

While learning from other nations, Indonesian formal review regulations must also take into account its own legal system. Formal review rules must reflect local values and democratic ideals in a nation with a civil-customary legal system. Formal review might include public engagement in the legislative process since community involvement is crucial to creating laws that represent their values. A supporting policy framework is required to undertake these rebuilding measures. The administration, House of Representatives, and Constitutional Court must collaborate to regulate formal review completely. Legal education should also be strengthened to promote public knowledge of formal review as a tool to preserve constitutional rights. So, formal review will be a technical instrument and part of a legal culture that upholds law and democracy. These restoration processes are crucial to closing legal loopholes in formal review and legitimizing the Indonesian judicial system. Formal review may make the legal system more fair, open, and accountable by confirming legislation compliance with constitutional values. This will eventually boost public faith in the judicial system and Indonesia's international legal standing.

5. Conclusions & recommendations

Legal gaps regarding legislative procedural validity, evidence criteria, and formal test filing time constraints have produced ambiguity that undermines legal product legitimacy and public faith in the legal system. Legal rebuilding, including amending laws, strengthening institutions, and adopting German and American best practices, is essential to tackling these issues. With these methods, Indonesia may improve its formal exam system, make it more responsive and fair, and enhance its international legal standing. Future research should

examine how these reconstructive procedures are implemented in the Indonesian judicial system. Research may build localized formal testing criteria that accommodate customary values and participatory democracy. Technology's function in formal testing transparency and efficacy, as well as new rules' effects on Indonesian legislative and judicial dynamics, must be studied. Formal testing reform is theoretically important and improves the national legal system.

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