ABSTRACT

JUDICIAL REVIEW BY THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA
(Human Rights Perspectives)

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The research is finding out the concept and the viewpoint on the substance of human rights that is adhered by the Constitutional Court of Republic Indonesia in its judicial review decisions.

The research findings include the following:

a. The existence of judicial review made by the Constitutional Court is the consequence of check and balance system among the legislative, executive and judicial institutions. Judicial review is a form of people's repressive control over the legislature. The Constitutional Court is a super body institution in carrying out its authority binds to the requirements of case or controversy, interdict to 'ultra petita' and impartiality.

b. The legal reasoning for the Constitutional Court dominantly adheres reasoning of Legal Positivism and the concept of human rights is 'the positive rights.'

c. The viewpoint of the Constitutional Court on the substance of human rights adheres the theory of positivism, natural law, Pancasila socialism and the theory of cultural relativism depending on the underlying cases.

In the future, the Constitutional Court should consider more carefully its decisions on completion of Indonesian constitutional law and be pursuant to Pancasila.

Keywords: people control, legal reasoning, legal positivism. 

Pancasila = the Indonesian Fundamental Principle.