



UNIVERSITAS  
INDONESIA

*Veritas, Probitas, Justitia*

FAKULTAS  
ILMU SOSIAL  
DAN ILMU  
POLITIK

# JUDICIARY

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司法機構  
JUDICIARY

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# POINTS OF DISCUSSION

- The institutions within the judiciary.
- The relation between the judiciary and the judicial.
- The legal function.
- Various laws.
- Types of positive law.
- Legal classification by subject.
- Judicial function.
- The judicial system.
- The relationship between judicial and executive.
- Judicial review.



# INSTITUTIONS IN THE JUDICIARY



## **Attorney**

Agency which collects lawsuits.



## **Court**

Agency makes a decision. If the decision is causing controversy, the judiciary can adjudicate thereon.



# THE JUDICIARY INSTITUTIONS

Sequence from bottom to top in Indonesia: Court - The Court of Appeal - the Supreme Court.

The highest judiciary institution in the whole country in the world is the Supreme Court.

Judiciary needed to crack down or to make a decision.



# THE FUNCTION OF LAW

MAHKAMAH AGUNG



**Maintain justice for  
all people.**



**Provide legal protection  
for members of the  
public.**

# THE LAW

## **Government based on law and not on power:**

Because power can be abused but the law is the standard provisions and adhered to all of society.

The law is an organ of the regulations made by the government on the basis of justice and executed by the justice community.

This understanding tends to the notion of positive law.



# VARIOUS OF LAW

## **Positive law**

Created and implemented by the government.

## **Natural law**

A set of principles about the behavior of people who came from God.



# TYPES OF POSITIVE LAW

## **Constitutional Law.**

Basic rules, written or unwritten, which became the basis of government operations. Examples of the written Constitution are the United States, Indonesia, Germany. Examples of unwritten constitution is the British. The rules of state that was not collected in one manuscript.

## **Statutory Law**

The regulations made by the parliament. Example: Law on Copyright and Intellectual Property.

## **Administration Law**

Created by government institutions in limited scope. Example: the regulations made by the police.



# TWO TYPES OF LAWS IN THE WORLD

## **Common Law**

The law is the reference for countries that follow English law. Usually that embraces the countries of the former British colony.

## **Civil Law or Roman Law**

The rules of law that created or collected by Napoleon I. Because of Roman Law is also called the Napoleonic Code.

# CLASSIFICATION OF LAW BASED ON THE SUBJECT

■ Criminal Law. The rules that regulate or sanction of the criminal offense (crime).

■ Civil Law. The rules that regulate or sanction of civil conflicts (human relations).

- Example: a person takes property of another and the victim to press charges.



# ACTIVE PERSON WITHIN THE TWO LAW

Apparatus is active in the criminal justice. While in civil law, which is active persons concerned.



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CHARLES H. DORSEY III  
MARYLAND OFFICE OF THE PUBLIC DEFENDER



# JUDICIAL FUNCTION

Law Enforcement.  
Can be either  
requested or not

Setting Disputes.  
Resolving conflict.  
Resolve personal  
problems or a group of  
people

# THE JUSTICE SYSTEM



■ Adversary. The judge is passive. The judge just listen to prosecutors and defense lawyers argue. Example: the United States.

■ Inquisitorial. The court actively seek evidence and questioning witnesses. Example: France.

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# RELATIONS BETWEEN THE JUDICIARY AND EXECUTIVE



■ Separation of judges and prosecutors.

■ Judges are free from political pressure. In a country that is democratic, executive officers should not affect or pressing decisions to be taken by the judiciary.

# JUDICIAL REVIEW



Judicial Review is the right of the Constitutional Court to examine the fit between the Act or regulations with the Constitution.



# REFERENCES

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# SHORT BIO



Cecep Hidayat is a lecturer of Political Science at the Universitas Indonesia. He is also a researcher at the Universitas Indonesia. Prior to joining the Universitas Indonesia, he has been conducting some research towards Indonesian politics as well as politics in Southeast Asian countries, until now. Cecep Hidayat holds a Sarjana degree (equivalent with Bachelor degree)/B.Sc in Political Science from the Universitas Indonesia, Indonesia, as well as dual degree in IMRI (International Masters in Regional Integration) from the Asia-Europe Institute of Universiti Malaya, Kuala Lumpur, Malaysia and Centro Internacional Carlos V of Universidad Autonoma de Madrid, Spain.