

Institutional Integrity and Challenges in the Indonesian Constitutional Court Institution

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ABSTRACT

The Constitutional Court of the Republic of Indonesia (MK-RI) is crucial in upholding legislative legitimacy and protecting constitutional rights. However, concerns over its integrity have arisen due to political interference, corruption, and ethical violations. This study aims to assess the integrity of the Constitutional Court, identify challenges it faces, and propose solutions to strengthen its credibility. Using a doctrinal legal research method, this study applies a legislative approach to analyze statutory regulations, a conceptual approach to explore institutional integrity principles, and a case approach to evaluate judicial decisions. Data collection is conducted through literature reviews and document analysis, with qualitative methods used for interpretation. The findings reveal a decline in public trust due to judicial corruption, controversial rulings, and undue political influence in judge appointments. The media and public surveys further reflect this erosion of confidence. To restore integrity, it is necessary to reinforce the legal framework, establish strict oversight mechanisms, enforce ethical standards with firm sanctions, and ensure transparency in the judicial selection process. These measures are crucial for maintaining the credibility of the Constitutional Court.

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1. Introduction

The Constitutional Court of the Republic of Indonesia (MK-RI) is a judicial entity crucial in maintaining the validity of legislation and safeguarding the constitutional rights of citizens. This institution was founded pursuant to the mandate of the 1945 Constitution of the Republic of Indonesia.¹ The Constitutional Court possesses the jurisdiction to evaluate laws for constitutional compliance, adjudicate conflicts about the powers of state entities, determine

¹ Iwan Satriawan and Khairil Azmin Mokhtar, 'The Role of Indonesian Constitutional Court in Resolving Disputes among the State Organs', *Hasanuddin Law Review*, 5.2 (2019), 159-79. <https://doi.org/10.20956/halrev.v5i2.1669>.

the dissolution of political parties, and resolve issues related to electoral outcomes.² The Constitutional Court's extensive authority is essential for upholding justice and legal stability in Indonesia. The integrity of the Court institution is paramount as the final safeguard of constitutional law.³ The integrity of an institution is not merely a reputation to be maintained; it is the fundamental basis that ensures public trust in its judgments. This includes several critical elements: independence, transparency, accountability, and integrity in executing responsibilities and functions.⁴

As an autonomous entity, the Constitutional Court must be unencumbered by any intrusion from the executive, legislative, or other external influences that may affect its rulings.⁵ This guarantees that each decision is solely grounded in legal principles, free from political influence or interests. The Constitutional Court can only properly and equitably accomplish its job by preserving its independence.⁶ Nonetheless, preserving the integrity of the Constitutional Court is a formidable endeavour, given the numerous threats it encounters. The corruption cases involving senior officials in this institution, including the 2013 controversy surrounding Chief Justice Akil Mochtar of the Constitutional Court, have sullied the reputation of the Constitutional Court and eroded public confidence. This case has undermined public trust in the integrity and autonomy of the Constitutional Court.⁷ Moreover, some contentious rulings from the Constitutional Court have deteriorated the reputation of this institution. Decisions perceived as unjust or prejudiced in favour of specific interests frequently elicit intense condemnation from the public and legal scholars, fostering accusations of political interference or influence from vested interests.⁸ This is exemplified in Decision Number 90/PUU-XXI/2023. The Constitutional Court has determined that regional leaders under 40 are eligible to candidacy for the presidency and vice presidency.

This contentious move aims to alleviate the minimum age criteria for vice presidential candidates, which directly advantages specific parties, particularly Gibran Rakabuming Raka, the offspring of President Joko Widodo. Numerous parties contend that the decision contravenes the norms of equality and justice in the election of high-ranking state officials and engenders suspicions of political interference. Intense criticism has emerged from diverse factions, including scholars, legal advocates, and opposition legislators, who perceive the verdict as a blatant manifestation of bias. They contend that the Constitutional Court must

² Moh. Thohir and Didik Sukriono, 'Implementation Authority Of The Constitutional Court In The Indonesian Constitutional Law System', *International Journal of Business, Law, and Education*, 4.2 (2023), 1495–1503. <https://doi.org/10.56442/ijble.v4i2.350>.

³ Maruarar Siahaan, 'Integrasi Konstitusional Kewenangan Judicial Review Mahkamah Konstitusi Dan Mahkamah Agung', *Jurnal Konstitusi*, 17.4 (2021), 729–52. <https://doi.org/10.31078/jk1742>.

⁴ Siti Noor Khatija Ibrahim, 'The Constitutional Court's Journey to Bureaucratic Reform', *International Journal Administration, Business & Organization*, 5.1 (2024), 107–19. <https://doi.org/10.61242/ijabo.24.389>.

⁵ Agatha Jumiati, 'Independensi Hakim Mahkamah Konstitusi Dalam Pengujian Peraturan Perundang-Undangan Yang Terkait Dengan Kewenangannya', *Jurnal Wacana Hukum*, 25.2 (2019), 30. <https://doi.org/10.33061/1.jwh.2019.25.2.3001>.

⁶ Achmad Taufan Soedirjo and Faisal Santiago, 'Political Dynamics in the Selection of Judges of the Constitutional Court of Indonesia: A Critical Analysis of Integrity and Independence', *Journal of World Science*, 3.3 (2024), 428–39. <https://doi.org/10.58344/jws.v3i3.585>.

⁷ Al Amin Syayidin Ali Mustopa, 'Pelaksanaan Sistem Pengawasan Hakim Konstitusi Di Indonesia', *Jurnal Konstitusi Dan Demokrasi*, 2.2 (2022). <https://doi.org/10.7454/JKD.v2i2.1209>.

⁸ Xiuyun Yang and Peter Ho, 'Mining Institutions, Contention and Credibility: Applying the Conflict Analysis Model to Court Cases in China', *The Extractive Industries and Society*, 7.3 (2020), 1011–21. <https://doi.org/10.1016/j.exis.2019.11.012>.

function as an autonomous entity, free from political interference or familial connections. This judgment is perceived as undermining the institution's integrity and establishing a detrimental precedent for democracy in Indonesia, where laws may be altered or construed to advantage specific individuals with close connections to those in authority.⁹

This incident has ignited discourse over the reform of Indonesia's legal and political framework, emphasizing the necessity for more stringent regulations and enhanced oversight mechanisms. These reforms should encompass the reinforcement of the selection process for Constitutional Court judges to minimize political influence, the expansion of the Constitutional Court's Honorary Council to ensure independent ethical supervision, and the enhancement of the Judicial Commission's authority to oversee judges' accountability. Currently, the supervisory mechanisms remain weak due to the limited jurisdiction of the Judicial Commission and the lack of transparent disciplinary procedures for ethical violations. Additionally, the absence of clear and enforceable sanctions for judges involved in conflicts of interest or political interference exacerbates the issue. Addressing these deficiencies through legal amendments and institutional restructuring is imperative to restore public trust and uphold the credibility of the Constitutional Court as an independent guardian of constitutional democracy.¹⁰ This case should act as a catalyst to reinforce the rule of law, ensuring that all people, irrespective of their history or familial ties, receive equitable treatment under the law.

Preserving the integrity of The Constitutional Court has enduring consequences for the viability of democracy and the rule of law in Indonesia. The preservation of integrity will guarantee the fundamental Court's continued efficacy as a protector of the Constitution, upholding the balance of power and safeguarding citizens' basic rights.¹¹ If the integrity of this institution is undermined, it could jeopardize the rule of law and democracy in Indonesia, eroding public trust in the entire judicial system. By preserving the integrity of a robust institution, the Constitutional Court can persist in its function as the custodian of the constitution and defender of the constitutional rights of Indonesian citizens. The existing issues must be confronted with suitable policies and actions to ensure that the Constitutional Court can fulfil its duty effectively and maintain the trust of the broader community.

Although several previous studies have examined the integrity of the Constitutional Court, most have primarily focused on normative aspects of judicial independence, ethical codes, and political pressures on constitutional judges. However, there remains a gap in the literature regarding the practical effectiveness of existing oversight mechanisms and the structural weaknesses that allow political influence and ethical breaches to persist. This study differentiates itself by conducting a comprehensive analysis that evaluates the normative framework and the practical implementation of ethical oversight and judicial accountability through case studies of major constitutional controversies, including Decision Number 90/PUU-XXI/2023. Additionally, this research introduces a comparative perspective by examining judicial oversight models in other constitutional courts to identify best practices that could be adapted to the Indonesian context. By employing a doctrinal legal research

⁹ Akbar Raga Nata and Muhammad Rifki Ramadhani Baskoro, 'Analisis Dampak Putusan Hakim Mahkamah Konstitusi Terhadap Putusan MK Nomor 90/PUU-XXI/2023', *Sanskara Hukum Dan HAM*, 2.02 (2023), 105–17. <https://doi.org/10.58812/shh.v2i02.288>.

¹⁰ H Muhammad Rezky and Pahlawan MP, 'The Constitutional Court Function of the Indonesian State Concerning System for the Implementation Impeachment of the President and/or Vice President', *Jurnal Hukum Volkgeist*, 4.2 (2020), 118–27. <https://doi.org/10.35326/volkgeist.v4i2.496>.

¹¹ Bagus Hermanto, I Gede Yusa, and Nyoman Mas Aryani, 'Constitutional Court of the Republic of Indonesia: Does the Ultra Petita Principle Reflect the Truth of Law?', *Fiat Justisia: Jurnal Ilmu Hukum*, 14.3 (2020), 261–86. <https://doi.org/10.25041/fiatjustisia.v14no3.1902>.

method with a legislative, conceptual, and case-based approach, this study aims to provide a more holistic understanding of the Constitutional Court's challenges and offer evidence-based policy recommendations to strengthen its integrity. This research fills an important gap by linking theoretical discussions on judicial independence with empirical findings on institutional weaknesses and reform needs, contributing to the broader discourse on constitutional democracy in Indonesia. This study seeks to examine the integrity of the Constitutional Court, evaluate its challenges, and assess initiatives to enhance the institution's integrity through suitable strategies and policies that uphold its role in democracy and the rule of law in Indonesia.

2. Research Method

This study employs a doctrinal research method to examine the legal principles governing the integrity of The Constitutional Court. It utilizes a legislative, conceptual, and case-based approach to comprehensively analyze the institutional framework and practical challenges the Court faces. The legislative approach reviews the 1945 Constitution, relevant statutory provisions such as Law No. 24 of 2003 on The Constitutional Court and its amendments, and other applicable regulations. The conceptual approach examines legal theories on judicial independence, integrity, and ethical accountability, providing a theoretical foundation for understanding institutional integrity. The case-based approach assesses landmark judicial decisions, including Decision Number 90/PUU-XXI/2023, to evaluate how institutional integrity principles are applied in practice.

This study relies on primary legal sources, including legislation, Constitutional Court decisions, and official government documents, to analyze the legal framework governing the Court's integrity. Additionally, secondary sources, such as academic journal articles, legal textbooks, reports from oversight institutions, and media publications, provide contextual and comparative insights. The data is synthesized using qualitative legal analysis, where legal texts are systematically interpreted and critically assessed to identify gaps, inconsistencies, and areas for reform. Furthermore, comparative legal analysis is employed by juxtaposing Indonesia's judicial integrity framework with oversight mechanisms in other jurisdictions, offering broader perspectives on institutional challenges and potential solutions.

3. Result and Discussion

3.1. The Development of the Integrity of the Indonesian Constitutional Court Since Its Establishment Until Now

The Constitutional Court of the Republic of Indonesia was founded by the third amendment to the 1945 Constitution, enacted on November 9, 2001. This alteration is a component of the constitutional reform initiated following the collapse of the New Order administration, intended to create a more democratic and transparent government structure. The formation of The Constitutional Court was characterized by political dynamics among political parties, the government, and civil society.¹² The founding of the Constitutional Court was prompted and shaped by the prevailing factual conditions of that period, initially because of the establishment of a democratic rule of law and a constitutional democracy. The evidence indicates that democratic judgments do not consistently adhere to the stipulations of the

¹² Andy Omara, 'The Indonesian Constitutional Court and the Democratic Institutions in Judicial Review', *Constitutional Review*, 3.2 (2018), 189. <https://doi.org/10.31078/consrev323>.

Constitution (UUD 1945), the supreme law. Consequently, an entity that possesses the authority to evaluate the constitutionality of legislation is required. Secondly, following the Second and Third Amendments, the Constitution (UUD 1945) modified the power dynamics by implementing a separation of powers grounded in checks and balances. The multitude of state institutions and their corresponding regulations engenders considerable potential for disagreements among them.

These dynamics represent the diverse interests and political influences shaping the post-reform institutional transformation trajectory. A primary feature of these dynamics is the amendment of the 1945 Constitution, which serves as the legal foundation for establishing The Constitutional Court. This modification necessitated extensive talks among members of the People's Consultative Assembly of the Republic of Indonesia (MPR-RI) and ignited several significant controversies. Political parties in the MPR-RI are pivotal in shaping and deciding constitutional amendments, particularly regarding the jurisdiction of The Constitutional Court, the process for appointing constitutional judges, and The Constitutional Court's role within the Indonesian constitutional framework. The political concerns in this case are intricate, as political parties must reconcile the interests of the party, the government, and the desires of its constituents.¹³

The Constitutional Court of the Republic of Indonesia, established as a new governmental agency during the reform era, is pivotal in preserving the balance of power and safeguarding citizens' constitutional rights.¹⁴ This institution was officially established on August 13, 2003, bypassing Law Number 24 of 2003 About the Constitutional Court. This ratification is a pivotal milestone in Indonesia's administrative history since it first establishes a judicial organization explicitly empowered to assess the legality of laws and adjudicate conflicts among state entities.¹⁵

The primary objective of establishing The Constitutional Court is to maintain the legality of laws, ensuring that all governmental regulations made by the government and legislative regulations align with the Constitution (UUD 1945).¹⁶ It is essential to guarantee that all legal goods promulgated by the government conform to the constitutional framework established by the state. In this setting, The Constitutional Court is the paramount law enforcer and supervisor, guaranteeing that all enacted laws are legal and constitutional. The Constitutional Court possesses the jurisdiction to evaluate laws for constitutional compliance, enabling it to invalidate regulations that are considered unconstitutional.

Besides adjudicating legislation, the Constitutional Court contributes to preserving a robust and equitable democratic process. One of its primary functions is to adjudicate disputes concerning electoral outcomes. In such instances, the Constitutional Court functions as an arbiter, determining the legitimacy of the disputed election outcomes. The Constitutional Court guarantees the integrity and fairness of elections, ensuring that the voices of the

¹³ Sugiono Margi and Maulida Khazanah, 'Kedudukan Mahkamah Konstitusi Dalam Kelembagaan Negara', *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia*, 1.3 (2022). <https://doi.org/10.52005/rechten.v1i3.48>.

¹⁴ Halimah Humayrah Tuanaya and Oksidelfa Yanto, 'The Extension of the Honorary Council of the Constitutional Court in Safeguarding the Integrity of Constitutional Court Judges', *Journal of Legal and Cultural Analytics*, 3.2 (2024), 197–208. <https://doi.org/10.55927/jlca.v3i2.9394>.

¹⁵ Omara.

¹⁶ Muhammad Iqbal Samsudin, 'A Comparison of Judicial Review in Indonesian Constitutional Court and French Constitutional Council', *Indonesian Comparative Law Review*, 5.1 (2022), 31–42. <https://doi.org/10.18196/iclr.v5i1.15127>.

populace are acknowledged and esteemed. The Constitutional Court also resolves power conflicts among governmental institutions.¹⁷ It may emerge from conflicting authorities or divergent interpretations of the Constitution. The Constitutional Court preserves the equilibrium of power among state institutions, averting power abuse and guaranteeing political and governmental stability.

The Constitutional Court of the Republic of Indonesia, founded in 2003, was initially perceived as a judicial entity of significant legitimacy and integrity. The integrity of The Constitutional Court is the primary foundation for ensuring that this institution can properly fulfil its role as the defender of the Constitution.¹⁸ Without integrity, the Constitutional Court cannot uphold public trust and legitimacy as an autonomous institution without political interference. The integrity of The Constitutional Court during its initial establishment, especially between 2003 and 2008, is evident via numerous critical factors that defined the institution's reputation as a robust protector of the Constitution. A key element is robust and authoritative leadership, particularly under the inaugural Chief Justice of the Constitutional Court, Prof. Dr Jimly Asshiddiqie. demonstrating a profound devotion to the Constitution, significantly contributed to the development of rules and regulations for The Constitutional Court while successfully establishing a robust basis of integrity inside the institution.

From 2003 to 2008, Prof. Dr. Jimly Asshiddiqie, as Chief Justice of The Constitutional Court, enacted numerous policies that substantially reinforced the institution's credibility. One of the primary measures he instituted was the creation of a stringent governance framework for the administration and internal management of The Constitutional Court. Through explicit decision-making protocols and rigorous oversight systems, Jimly guaranteed that all procedures inside the Court were executed with utmost professionalism and remained impervious to deviation. Furthermore, he underscores the significance of transparency and accountability in all facets of the trial. The policy of allowing live broadcasting of court hearings is an innovation that bolsters public faith in The Constitutional Court, enabling the community to observe the trial process in real-time.

Jimly significantly contributed to developing the Code of Ethics for Constitutional Court judges to guarantee that the judges maintain elevated moral and professional standards. This code of ethics provides a framework for judges to uphold objectivity and impartiality while preserving the institution's independence.¹⁹ Jimly cultivated a work environment that prioritizes independence, guaranteeing that each decision is grounded in law and the Constitution to preserve The Constitutional Court's autonomy from external pressures, particularly from the executive and legislative departments.

Jimly's primary emphasis is on the quality of the Constitutional Court's decisions, urging judges to render rulings grounded in thorough and rigorous legal research. These verdicts emphasize the tenets of justice and safeguard human rights. Certain rulings of The

¹⁷ Fira Natasha and Ridham Priskap, 'Analisis Terhadap Kewenangan Mahkamah Konstitusi Dalam Penyelesaian Sengketa Kewenangan Lembaga Negara Berdasarkan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945', *Limbago: Journal of Constitutional Law*, 1.3 (2021), 517-36. <https://doi.org/10.22437/limbago.v1i3.15911>.

¹⁸ Rustam Rustam, Tat Marlina, and Duwi Handoko, 'Sejarah Pembentukan Dan Kewenangan Mahkamah Konstitusi Dalam Sistem Ketatanegaraan Indonesia', *Jurnal Dimensi*, 11.2 (2022), 270-81. <https://doi.org/10.33373/dms.v11i2.3973>.

¹⁹ Edo Maranata Tambunan and others, 'Analisi Eksistensi Etika Hakim Mahkamah Konstitusi Dalam Mewujudkan Peradilan Berintegritas Dan Akuntabel (Putusan MK No. 90/PUU-I/2023)', *Iblam Law Review*, 4.2 (2024), 50-61. <https://doi.org/10.52249/ilr.v4i2.406>.

Constitutional Court have emerged as pivotal milestones in the evolution of national law,²⁰ enhancing the function of the Constitutional Court as an entity that proficiently protects and maintains the Constitution. These verdicts demonstrate the Constitutional Court's courage in advocating for justice and the safeguarding of human rights, so reinforcing its status as a judicial institution of great integrity. Between 2003-2008, 205 out of 207 submitted cases were adjudicated. This encompasses 152 instances of Judicial Review, 10 instances of State Institution Authority Disputes and 45 instances of Election Result Dispute.

Despite the Indonesian Constitutional Court establishing a robust reputation throughout its initial decade, the interval from 2013-2018 signified a crisis that profoundly undermined the institution's integrity. This era commenced with a significant controversy involving the former Chief Justice of The Constitutional Court, Akil Mochtar, apprehended by the Corruption Eradication Commission in 2013.²¹ Akil is said to have accepted bribes concerning the regional head election controversy, contravening his responsibilities as a custodian of the constitution. This incident has tarnished Akil Mochtar's reputation and eroded public confidence in The Constitutional Court as an institution intended to uphold justice. This case's discovery has ignited extensive discourse regarding the integrity and transparency of The Constitutional Court's processes, while also highlighting deficiencies in the recruitment and oversight mechanisms for constitutional judges.²² Akil Mochtar scandal and the 2017 bribery case involving constitutional judge Patrialis Akbar undermined The Constitutional Court, illustrating that the institution's integrity challenges are not isolated occurrences but rather reflections of systemic weaknesses. The scandals undermined public trust and triggered a legitimacy crisis, threatening the credibility of all decisions rendered by The Constitutional Court.

The problem has prompted calls for substantial improvements to the Constitutional Court's governance and oversight mechanisms. Proponents advocate for a transparent and responsible judicial recruitment process, alongside enhanced internal and external supervision, to ensure the Court's accountability and credibility. Addressing these concerns requires comprehensive legal reforms to strengthen the institutional framework governing The Constitutional Court. Efforts should focus on reinforcing the code of ethics, imposing strict sanctions on judges who violate ethical standards, and establishing clear and enforceable disciplinary measures to deter misconduct. Additionally, greater transparency in the selection process for Constitutional Court judges is essential to prevent political intervention and ensure the appointment of candidates with proven integrity and independence. The period from 2013 to 2018 marked a critical turning point for the judiciary, highlighting the urgency of restoring public trust through stronger legal mechanisms, oversight institutions, and ethical safeguards that uphold the Court's role in maintaining democracy and the rule of law.²³

²⁰ Simon Butt, 'The Indonesian Constitutional Court: Reconfiguring Decentralization for Better or Worse?', *Asian Journal of Comparative Law*, 14.1 (2019), 147–74. <https://doi.org/10.1017/asjcl.2018.19>.

²¹ Fajlurrahman Jurdi, Rizqa Ananda Hanapi, and Taufik Hidayat, 'Optimalisasi Fungsi Pengawasan Dewan Etik Mahkamah Konstitusi', *Jurnal Hukum & Pembangunan*, 50.3 (2020), 689–700. <https://doi.org/10.21143/jhp.vol50.no3.2591>.

²² Yordan Gunawan, 'Arbitration Award of Icsid on the Investment Disputes of Churchill Mining Plc v. Republic of Indonesia', *Hasanuddin Law Review*, 3.1 (2017), 14–26. <https://doi.org/10.20956/halrev.v3i1.948>.

²³ Yordan Gunawan, M. Fabian Akbar, and Eva Ferrer Corral, 'Kafala v. Human Rights Migrant Workers at the 2022 Qatar World Cup', *Journal of Indonesian Legal Studies*, 9.2 SE-Research Article (2024), 571–98. <https://doi.org/10.15294/jils.v9i2.2601>.

The Constitutional Court's integrity deterioration has reemerged in the Anwar Usman scandal. This issue has garnered public attention due to charges that Anwar Usman, when acting as Chief Justice of the Constitutional Court, breached the ethical code expected of all constitutional judges. During his tenure as Chief Justice of The Constitutional Court, Anwar Usman perpetrated significant breaches of the code of ethics while reviewing case number 90/PUU-XXI/2023 concerning the age restrictions for presidential and vice-presidential candidates. The ruling is believed to favour and safeguard the interests of the President's son, Gibran Rakabuming Raka, who maintains connections with Anwar Usman, the Chairman of The Constitutional Court. This action contravenes Article 17 of the Judicial Power Law, which stipulates that a constitutional judge must abstain from adjudicating a case if his family has a vested interest in the outcome.

The purported infractions not only damaged Anwar Usman's reputation but also undermined public confidence in the autonomy and professionalism of the Constitutional Court as the preeminent judicial body that upholds the nation's constitution. The situation became more complex when the Honorary Council of the Constitutional Court took strong measures to remove Anwar Usman from his position as Chief Justice of The Constitutional Court. The decision was rendered following a comprehensive review that identified substantial code of ethics breaches. This dismissal contributes to the extensive array of difficulties that compromise the credibility of the Constitutional Court, indicating that while this institution is vital in protecting the Constitution, internal obstacles to maintaining integrity persist as a significant concern that requires resolution.

Since its establishment, the Constitutional Court in Indonesia has encountered several political problems, with rulings frequently provoking controversy and vigorous reactions from the government, political parties, and the populace. This underscores the court's significance in safeguarding democracy and upholding citizens' fundamental rights. Political and economic pressures frequently undermine the autonomy and integrity of the judiciary. Corruption scandals involving constitutional judges have diminished public trust, prompting apprehensions over the court's independence. People frequently perceive revisions to the Constitutional Court Law, which regulates the minimum age of justices and their terms of service, as attempts to compromise the court's independence. This has elicited apprehensions among academics, legal practitioners, and the general populace, who desire a judiciary unencumbered by political and economic influence.

3.2. Challenges of the Constitutional Court Institution in Maintaining its Institutional Integrity

Article 24, paragraph (1) of the 1945 Constitution of the Republic of Indonesia stipulates that the judiciary possesses independent authority to administer trials and enforce law and justice.²⁴ The constitutional provisions about judicial power are delineated in Law Number 48 of 2009 on Judicial Power.²⁵ Constitutional judges must exhibit honesty and exemplary character, demonstrate fairness, function as statesmen proficient in the Constitution and state governance, and refrain from holding multiple roles as state officials. The assertion concerning

²⁴ Hari Purwadi and others, 'Resolving the Judiciary Tensions Between the Constitutional Court and The Supreme Court of Indonesia', *Journal of Indonesia Legal Studies*, 9.1 (2024), 317–52. <https://doi.org/10.15294/jils.vol9i1.4635>.

²⁵ Yayan Sopyan, 'Contempt of Court in Indonesia: The Meaning, Root of Problems and Its Alternative Solutions', *Jurnal Dinamika Hukum*, 20.1 (2021), 82–100. <https://doi.org/10.20884/1.jdh.2020.20.1.2731>.

an autonomous judiciary and the ideal attributes of constitutional judges—equitable, possessing integrity, and exhibiting statesmanlike qualities—ultimately signifies that The Constitutional Court must reflect a justice culture.²⁶

The Constitutional Court, as the custodian of the constitution, holds a significant position within Indonesia's governmental framework. The Constitutional Court, as authorized by the Constitution to interpret and uphold the 1945 Constitution, serves as an adjudicator in election disputes and possesses the jurisdiction to conduct judicial reviews of laws for constitutional compliance. The Constitutional Court occupies a pivotal role in preserving the equilibrium and stability of Indonesia's democratic system. The rulings of the Constitutional Court frequently shape national policy and guarantee that governmental actions conform to constitutional norms.²⁷ Nonetheless, the Constitutional Court faces challenges that jeopardize its institutional integrity over time. These problems may originate from both internal and external sources, impacting the autonomy of the Constitutional Court judges.

A significant difficulty confronting the Constitutional Court is political influence, which may compromise the autonomy of judges in executing their responsibilities. Since its inception, the Constitutional Court has been plagued with apprehensions regarding political interference in its decision-making, with judgments allegedly swayed by specific interests. The credibility of the Constitutional Court may be compromised when justices, expected to operate freely and impartially, are potentially swayed by political interests that affect their rulings.²⁸

Political pressure on the justices of the Constitutional Court has intensified in many cases concerning election result challenges (PHPU). The judges encounter intricate legal dilemmas and pressure from interests possessing political or economic influence. This may manifest as political lobbying intended to sway decisions, occasionally escalating to threats to the safety of judges. This pressure undermines the integrity of the judicial process and fosters a detrimental public view of the Constitutional Court's independence as a justice institution free from political interference.

The phenomenon of monetary politics and political dowries frequently emerges in disputes over election outcomes, exacerbating the complexities encountered by the Constitutional Court.²⁹ Monetary influence in politics compromises the integrity of the election process and complicates judicial decision-making in situations involving politically powerful financial entities. In certain electoral disputes, there have been allegations of efforts to sway judges using financial inducements or political coercion, ostensibly for national stability. This positions judges in a moral and professional quandary, necessitating a choice between

²⁶ Yordan Gunawan and Hanna Nur Afifah Yogar, 'Indonesia E-Hailing Taxi: The Competition between Law and Technology', *Handbook of Research on Innovation and Development of E-Commerce and E-Business in ASEAN*, 2 (2020), 594–606. <https://doi.org/10.4018/978-1-7998-4984-1>.

²⁷ Febriansyah Ramadhan and Ilham Dwi Rafiqi, 'Study of Constitutional Court Decisions Cancelling All Norms in the Law', *Legality : Jurnal Ilmiah Hukum*, 29.2 (2021), 286–308. <https://doi.org/10.22219/ljih.v29i2.15434>.

²⁸ Muh Ridha Hakim, 'Tafsir Independensi Kekuasaan Kehakiman Dalam Putusan Mahkamah Konstitusi / Interpretation of Judicial Power Independence In Constitutional Court Decisions', *Jurnal Hukum Dan Peradilan*, 7.2 (2018), 279. <https://doi.org/10.25216/jhp.7.2.2018.279-296>.

²⁹ Retna Susanti, 'Politik Uang Dalam Pemilu Ditinjau Dari Perspektif Yuridis Sosiologis', *Jurnal Lex Renaissance*, 6.3 (2021), 578–90. <https://doi.org/10.20885/jlr.vol6.iss3.art10>.

preserving their personal and institutional integrity or yielding to demands that may compromise the credibility of The Constitutional Court.³⁰

This pressure is intensified by the reality that each decision of the Constitutional Court has significant legal, social, and political ramifications. Decisions influenced by political pressure may establish a detrimental precedent that compromises the credibility of the Constitutional Court, perhaps diminishing public trust in the entire judicial system. The Constitutional Court's rulings frequently garner national notice concerning contested election outcomes. Perceptions of decisions being swayed by political pressure may incite public discontent and result in wider societal conflicts.

Moreover, corruption and scandals involving senior officials of The Constitutional Court present a considerable issue that jeopardizes the integrity of this institution and may erode public trust in the judiciary in Indonesia. In 2013, the Constitutional Court experienced one of its most significant integrity crises when former Chief Justice Akil Mochtar was apprehended in a sting operation by the Corruption Eradication Commission on allegations of bribery related to regional election disputes. This incident has astonished the public and compromised the credibility of The Constitutional Court, given that Akil Mochtar occupied the highest position in an institution that is expected to be the ultimate defender of the constitution and law in Indonesia. The controversy has precipitated a profound crisis of public trust in the Constitutional Court, which is now scrutinised for its integrity in fulfilling its responsibilities.

Rehabilitating the reputation of the Constitutional Court following the Akil Mochtar controversy is a formidable challenge. The Constitutional Court must implement decisive measures to eradicate corruption within its institution and guarantee that every judge serving therein embodies genuine integrity. These measures encompass profound internal reforms, strengthening oversight procedures, and augmenting transparency and accountability in its activities.³¹ Nonetheless, the obstacles to preserving the integrity of the Constitutional Court extend beyond that. Years after the Akil Mochtar controversy, this institution was under scrutiny again due to a scandal involving the Chief Justice of The Constitutional Court, Anwar Usman, which similarly elicited apprehensions of a deterioration in integrity standards within the Constitutional Court.

The situation involving Anwar Usman highlights the persistent challenges to the integrity of The Constitutional Court, indicating that any scandal involving its senior officials could jeopardize the public trust that has been meticulously restored following prior controversies. Furthermore, this case illustrates that endeavours to uphold the integrity of the Constitutional Court must be sustained through internal reforms and by enhancing transparent and accountable selection and oversight systems. Moreover, openness and accountability pose obstacles to the institutions of the Constitutional Court. These two components are crucial pillars that present considerable hurdles for the Constitutional Court of Indonesia.³²

³⁰ Ninon Melatyugra, Uumbu Rauta, and Indirani Wauran, 'Overruling Mahkamah Konstitusi RI Terkait Isu Korupsi', *Jurnal Konstitusi*, 18.2 (2021), 368. <https://doi.org/10.31078/jk1825>.

³¹ I Satriawan, 'Implication of Selection Mechanism Towards Integrity and Independency of Constitutional Court Judges in Indonesia', *Jurnal IUS Kajian Hukum Dan Keadilan*, 9.1 (2021), 112-38. <https://doi.org/10.29303/ius.v9i1.871>.

³² Hani Adhani, 'Mahkamah Konstitusi Indonesia Di Era Digital: Upaya Menegakan Konstitusi, Keadilan Substantif Dan Budaya Sadar Berkonstitusi', *Jurnal Penegakan Hukum Dan Keadilan*, 2.2 (2021), 130-46. <https://doi.org/10.18196/jphk.v2i2.11763>.

The Constitutional Court, as a vital institution in preserving the Constitution, must preserve its integrity through transparent and accountable processes, particularly regarding the selection of judges. Appointing judges to the Constitutional Court, which engages the three government institutions—executive, legislative, and judicial—frequently attracts public scrutiny. The participation of these three institutions amplifies the likelihood of political interference, wherein the choices rendered may align more with specific political goals or influences than with the imperative to maintain the rule of law.

In appointing Constitutional Court judges, transparency is both a normative obligation and an imperative to guarantee that the process is conducted objectively and equitably. This transparency must include multiple facets, from public disclosures of the selection criteria to community engagement and the inclusion of independent entities in the candidate screening process.³³ Every phase of the selection process must be open to public scrutiny, encompassing details regarding the judicial candidates' backgrounds, professional histories, and possible conflicts of interest. This transparency is essential to prevent the nomination of judges with specific political affiliations or those susceptible to external influences.³⁴ Alongside transparency, post-inauguration accountability must be enhanced. The justices of The Constitutional Court must be accountable to the appointing institution and to the public, which anticipates justice and legal certainty.

An efficient oversight mechanism must be established to guarantee that the judges of the Constitutional Court perform their responsibilities with the utmost professionalism and total independence. This oversight can be conducted via frequent audits of decisions and through performance evaluation processes that engage diverse stakeholders, including civil society representatives, academics, and legal professionals. Consequently, judges who neglect their duties and obligations can be recognized and subjected to suitable consequences. Furthermore, it is imperative to set stringent ethical criteria for judges of the Constitutional Court. The justices of The Constitutional Court are required to comply with the ethical code that forbids the acceptance of bribes, outlaws participation in political activities, and mandates the avoidance of any relationships that may result in conflicts of interest. Implementing these ethical standards necessitates a transparent reporting and investigation system to ensure that infractions are handled swiftly with decisive action.³⁵

Decision-making is another difficulty concerning transparency and accountability in the Constitutional Court. The Constitutional Court must execute its decisions, particularly concerning significant matters like the annulment of legislation or the adjudication of election disputes, through a transparent and accountable procedure. The judge must grant the public access to the legal rationale and factors considered in rendering this ruling. The dissemination of decisions accompanied by their rationale is a crucial measure to guarantee that The Constitutional Court functions on a robust legal foundation, free from extraneous pressures or influences.

The complexity of cases presented to The Constitutional Court has markedly escalated in tandem with Indonesia's growing political, social, and legal dynamics. Initially, The

³³ Fence M.Wantu and others, 'Proses Seleksi Hakim Konstitusi: Problematika Dan Model Ke Depan Constitutional Judge Selection Process: Problems and Future Models', *Jurnal Konstitusi*, 18.2 (2021), 240–61. <https://doi.org/10.31078/jk1821>.

³⁴ M.Wantu and others.

³⁵ Iwan Satriawan and Tanto Lailam, 'Implikasi Mekanisme Seleksi Terhadap Independensi Dan Integritas Hakim Konstitusi Di Indonesia', *Jurnal IUS Kajian Hukum Dan Keadilan*, 9.1 (2021), 112–38. <https://doi.org/10.29303/ius.v9i1.871>.

Constitutional Court encountered predominantly normative and technical problems, including discrepancies in legal interpretation and small jurisdictional disputes among state organs. The Constitutional Court is currently faced with matters that are far more intricate and multifaceted. These issues necessitate restricted legal interpretations and compel The Constitutional Court to evaluate wider political, social, economic, and cultural ramifications. The case concerning the elections serves as a noteworthy example. In recent years, The Constitutional Court has frequently adjudicated issues about election outcomes that threaten the political prospects of people or parties, as well as the stability of democracy in Indonesia. In this setting, The Constitutional Court functions as a legal adjudicator and protector of political stability, as its rulings can affect public confidence in the electoral process and the legitimacy of the elected administration. Moreover, the incidence and intricacy of human rights issues have escalated. The Constitutional Court must reconcile safeguarding individual rights, including freedom of religion, expression, and land rights, with conflicting public interests. Regarding religious freedom, The Constitutional Court must weigh societal sensitivities and the possibility of conflict among community groups while adhering to constitutional values.

Regional autonomy is another factor that complicates the cases in The Constitutional Court. The increasing decentralization has led numerous regions to establish local legislation that frequently contradicts national laws. The Constitutional Court must adjudicate this contradiction by weighing the region's right to self-governance against the necessity of preserving national legal cohesion. Cases about contentious laws and regulations further exacerbate the strain on The Constitutional Court. In agricultural reform, economic policies, or constitutional amendments, The Constitutional Court must comprehensively analyse the formal legal dimensions and the potential social, economic, and environmental repercussions of its rulings. The Constitutional Court must exercise caution to avoid strict adherence to the legal text while considering its decisions' broader context and implications.

To navigate this complexity, Constitutional Court judges must possess exceptional integrity and a profound comprehension of multiple disciplines, including law, politics, economics, and sociology. The complexity of the matter lies not only in the legal dimension but also in the political and societal ramifications that may arise from The Constitutional Court's ruling. Consequently, judges must consider the diverse ramifications of their decisions to render equitable judgments aligned with constitutional values and the public interest. The escalating complexity of situations necessitates enhanced collaboration between judges and specialists across several disciplines. In certain instances, the involvement of experts or expert witnesses is essential to offer a more comprehensive and profound understanding of the contested matters. However, this intensifies the challenges for judges in evaluating and filtering the presented evidence to uphold impartiality and prevent bias. This intricacy necessitates additional time and effort in the decision-making process. Judges must conduct a more meticulous and diligent examination of all facets of the filed case. Errors in comprehending or interpreting the legislation or associated facts can have dire repercussions, both for the parties engaged in the case and for public confidence in The Constitutional Court as the institution that upholds the Constitution.

3.3. Efforts to Strengthen the Integrity and Accountability of the Indonesian Constitutional Court

The Constitutional Court is the sole state institution known as the "guardian of the Constitution" or the guardian of the Republic of Indonesia's Constitution. Its primary

authority and responsibility include adjudicating laws pertinent to the 1945 Constitution, examining disputes concerning the authority of state institutions conferred by the Constitution, determining the dissolution of political parties, and resolving disputes related to election outcomes.³⁶ Consequently, initiatives to enhance the integrity and accountability of the Indonesian Constitutional Court are crucial to ensuring that this institution can perform its functions properly and without external interference. A strategic measure is to enhance the legal and regulatory framework.³⁷

Enhancing the integrity and accountability of the Constitutional Court in Indonesia is essential for providing honest and reliable constitutional justice. The initial crucial step is to enhance the legal structure regulating this institution. Law Number 24 of 2003, regarding the Constitutional Court and its subsequent changes, necessitates continuous assessment and enhancement. This assessment addresses legislative advancements and political dynamics, establishing stringent measures to prevent and prosecute corruption, collusion, and nepotism that may jeopardize institutional integrity.

It must establish more stringent legislative measures to eliminate gaps that allow constitutional judges to misuse their power. This is part of a broader initiative to preserve the integrity of the Constitutional Court. Enhancing the criteria for selecting and appointing constitutional judges is a critical first step.³⁸ In this procedure, it is insufficient to evaluate a potential judge's professional competencies merely; a pristine record of integrity must be a crucial criterion for assessing their eligibility. All candidates for the Constitutional Court judgeship must pass a stringent selection procedure that meticulously examines their background, ethics, and professional history. In this context, the selection process must be transparent. It must execute each phase of the selection process with transparency and accountability, engaging several stakeholders, including civil society, to ensure the process remains free from political meddling and corruption. Establishing robust oversight procedures for The Constitutional Court is essential to guaranteeing that the nominated constitutional judges fulfil their responsibilities with integrity. This oversight must include an internal mechanism through a strengthened code of ethics and strict sanctions for judges who violate it. Meanwhile, external oversight should be carefully considered within the constitutional framework to avoid potential conflicts with judicial independence, as highlighted in Constitutional Court Decision No. 56/PUU-XX/2022. The ruling stipulates that external supervision of constitutional judges must not compromise the Court's autonomy and impartiality as a judicial institution. Therefore, while ethical oversight remains crucial, any external supervisory model must be designed to uphold the balance between accountability and judicial independence to maintain the integrity of The Constitutional Court.

Moreover, internal control at the Constitutional Court is crucial for preserving the integrity and credibility of this institution. To improve internal monitoring, the first step is strengthening ethics and discipline by fortifying the Ethics Council and instituting a more

³⁶ Ria Mardiana Yusuf, Nurdjanah Hamid, and Andi Ratna Sari Dewi, 'Leadership Integrity and the Effect on Good Governance Practices in the Indonesian Constitutional Court', *Journal of Advanced Research in Dynamical and Control Systems*, 12.1 (2020), 415–25. <https://doi.org/10.5373/jardcs/v12i1/20201922>.

³⁷ Yordan Gunawan and others, 'Journalist Protection on the Battlefield Under the International Humanitarian Law: Russia-Ukraine War', *Jurnal Hukum Unissula*, 39.1 (2023), 1–11. <https://doi.org/10.26532/jh.v39i1.24685>.

³⁸ Putri Diah Ayu and Muwafiq Jufri, 'The Urgency of the Prohibition of Political Party Cadre Members From Participating in the Recruitment of Constitutional Judges', *JCH (Jurnal Cendekia Hukum)*, 9.1 (2023), 99–114. <https://doi.org/10.3376/jch.v9i1.807>.

extensive code of ethics. The primary responsibility of the Ethics Council is to maintain the conduct of the constitutional judges through the oversight of their daily actions and the evaluation and resolution of public allegations concerning potential ethical breaches by the constitutional judges. Along with strengthening the Ethics Council, the code of ethics must include explicit and comprehensive regulations concerning the expected conduct of each constitutional judge and stringent directives to prevent conflicts of interest and uphold their autonomy from external pressures. Prioritizing the enforcement of strict and uniform sanctions for all code of ethics breaches is essential to discourage offenders and uphold professional standards within The Constitutional Court.³⁹

Conversely, external scrutiny is crucial for maintaining the transparency and accountability of The Constitutional Court. The Judicial Commission of Indonesia, as the arbiter of judicial ethics, requires an expanded mandate.⁴⁰ Enhancing the Judicial Commission's jurisdiction to supervise and suggest penalties for constitutional judges who violate the code of ethics can achieve this. Improving the Judicial Commission's role goes beyond just keeping an eye on things. It also includes helping to create and change the code of ethics for constitutional judges. This ensures that the rules align with the changes and difficulties in practising constitutional justice. Improving communication between the Constitutional Court and the Judicial Commission is essential for establishing a more efficient and responsive supervision structure.⁴¹

It should grant the Judicial Commission expanded access to evaluate judges' performance, including the investigation of claims related to ethical breaches. The Judicial Commission operates not only as a passive supervisory entity but also as an active collaborator in maintaining the judiciary's integrity. Enhancing transparency in addressing ethical infractions, such as disclosing the Judicial Commission's decisions on judicial punishments, is a crucial measure for fostering public trust in The Constitutional Court.⁴²

Along with improving regulations, transparency is critical in the recruitment process for Constitutional Court judges. The appointment of constitutional justices is critical to preserving the integrity of the Constitutional Court in Indonesia. It must meticulously craft this approach to ensure that only individuals with exceptional moral and professional integrity can assume these crucial roles. The appointment of appropriate judges is essential due to the Constitutional Court's significant role in preserving the Constitution and adjudicating related conflicts. Honest and accountable selection of Constitutional judges is necessary to achieve this objective and involve diverse societal groups.⁴³ Transparency in the recruitment process

³⁹ Rosa Ristawati and Radian Salman, 'The Role of The Indonesian Constitutional Court in Preventing Social Conflict in A Diverse Society', *Constitutional Review*, 9.2 (2023), 332. <https://doi.org/10.31078/consrev925>.

⁴⁰ Mery R.L Sibarani and Armunanto Hutahean, 'Urgensi Pengawasan Eksternal Hakim Mahkamah Konstitusi Dalam Pengujian Undang-Undang Berdasarkan Kekuasaan Kehakiman Menurut Uud Nri 1945', *Honeste Vivere*, 34.1 (2023), 120–36. <https://doi.org/10.55809/hv.v34i1.308>.

⁴¹ F Z Z Hamdan, 'Limitation of Misconduct of Judges: Increasing The Synergy of Supervision of Judges by The Judicial Commission and The Supreme Court', *Yuridika*, 38.2 (2023), 371–88. <https://doi.org/10.20473/ydk.v38i2.45472>.

⁴² Widayati and others, 'Reconstruction Of The Judicial Commission's Authority In Promoting Judges With Integrity', *Jurnal Hukum UNISSULA*, 39.02 (2023), 270–94. <https://doi.org/10.26532/jh.v39i2.36612>.

⁴³ Miftah Faried Hadinatha, 'Peran Mahkamah Konstitusi Mencegah Gejala Autocratic Legalism Di Indonesia', *Jurnal Konstitusi*, 19.4 (2022), 741–65. <https://doi.org/10.31078/jk1941>.

means granting the public access to information and disseminating the selection processes, assessment criteria, and evaluation outcomes for each candidate.⁴⁴

This transparency enables the public to thoroughly comprehend the selection process, including screening judicial candidates and the rationale for the final judgments. Consequently, the public can engage in oversight and offer constructive criticism, enhancing the legitimacy of the selection process. Furthermore, accountability should be an essential criterion when recruiting constitutional judges. The selection committee must thoroughly document each phase of the process and make every decision accountable to the public. The selecting committee must be receptive to criticism and recommendations but also prepared to offer rational and justifiable justifications for its conclusions. This accountability is crucial to guarantee that the selection process is not merely a formality but seeks to identify the most qualified individuals who fulfil the set criteria.

Stringent ethical standards must be an unequivocal prerequisite for any candidate for The Constitutional Court. This criterion encompasses a history of honesty, legal conformity, and autonomy from political influence and particular interests. The participation of civil society, scholars, and non-governmental groups in the electoral process is essential since it offers a wider perspective and diminishes the risk of political interference that may jeopardize institutional independence.⁴⁵ Furthermore, it is essential to establish methods for monitoring and evaluating the performance of elected constitutional judges to guarantee their continued adherence to integrity and independence during their tenure. Under rigorous and ongoing supervision, it is anticipated that the Constitutional Court will continue to serve as a dependable defender of the Constitution, free from political influence and capable of carrying out its duties impartially and equitably. These initiatives can strengthen The Constitutional Court's role as a fundamental pillar in Indonesia's law and justice maintenance.⁴⁶

4. Conclusion

Established to ensure the legality of Indonesian law, the Constitutional Court serves as the principal authority for constitutional implementation and adjudicates constitutional disputes. The integrity of the Constitutional Court has markedly deteriorated owing to political interference, corrupt activities, and breaches of the ethical code. Consequently, political influence has resulted in a diminution of judicial independence. Simultaneously, corrupt activities and breaches of the code of ethics compromise the integrity of institutions by safeguarding the economic and political interests of judges and their families. The erosion of public confidence in the Constitutional Court significantly undermines its integrity. An essential measure to bolster the integrity of the Constitutional Court is the reform of the institution's legal framework, which includes clarifying and enforcing norms pertaining to openness and accountability. Enhancing the code of ethics is crucial, necessitating the implementation of stringent penalties for judges who contravene these standards. It must execute the recruitment procedure for potential judges with complete transparency, ensuring

⁴⁴ Abdul Ghoftar, 'Mewujudkan Mahkamah Konstitusi Sebagai Peradilan Yang Akuntabel Dan Terpercaya', *Pandecta: Research Law Journal*, 13.2 (2018), 76-88. <https://doi.org/10.15294/pandecta.v13i2.16727>.

⁴⁵ Dodi Jaya Wardana, Sukardi, and Radian Salman, 'Public Participation in the Law-Making Process in Indonesia', *Jurnal Media Hukum*, 30.1 (2023), 66-77. <https://doi.org/10.18196/jmh.v30i1.14813>.

⁴⁶ Rahmat Muhajir Nugroho and others, 'A Comparison of Legislative Election Systems in Indonesia and Malaysia', *Jurnal Media Hukum*, 31.1 (2024), 59-77. <https://doi.org/10.18196/jmh.v31i1.21485>.

the selection of individuals of exceptional integrity. Rigorous internal oversight and external scrutiny by civil society and the media are essential to bolstering this initiative.

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