

REFORMING ETHICAL OVERSIGHT MECHANISMS FOR CONSTITUTIONAL COURT JUSTICES IN INDONESIA

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Abstract

The integrity of the Constitutional Court of Indonesia, as one of the judicial authorities in the post-reform constitutional system, demands not only independence but also ethical accountability of its justices. While Article 24 of the 1945 Constitution and Law No. 48 of 2009 safeguard judicial independence, oversight mechanisms particularly ethical ones remain limited and internally controlled. The abolition of the Constitutional Court Honorary Council of Appeals (Majelis Kehormatan Banding) and the lack of external checks have raised critical questions about due process, institutional legitimacy, and legal certainty in judicial ethical enforcement. This research adopts a normative legal method, utilizing statute, case, and conceptual approaches. Primary legal sources include the 1945 Constitution, Law No. 48 of 2009 on Judicial Powers, Law No. 24 of 2003 and its amendments on the Constitutional Court, and Constitutional Court Regulations (PMK). These are analyzed alongside decisions of the Honorary Council (MKMK), academic literature, and comparative doctrines on judicial accountability and ethics. The findings reveal significant institutional and procedural weaknesses in the current ethical oversight system. The absence of an appeal mechanism against MKMK decisions and the concentration of oversight within the Court itself reduce transparency, weaken checks and balances, and potentially undermine public trust. Although the MKMK is tasked with maintaining judicial ethics, its structural dependency, lack of external participation, and limited procedural safeguards raise concerns about fairness and impartiality in high-stakes disciplinary decisions. This study argues for a comprehensive reconstruction of the ethical oversight framework for Constitutional Court justices. Reform is needed to enhance the independence of the MKMK, reestablish a credible appellate body, and institutionalize procedural guarantees in line with the principles of due process of law.

Legal reform should also clarify the consequences of ethical violations and establish clearer norms for proportional sanctions. These efforts are essential to restore public confidence and ensure the Court's legitimacy as the guardian of the Constitution.

Keywords: Constitutional Court; ethical oversight; judicial accountability; judicial independence; legal reform.

1. Introduction

The rule of law (*rechstaat*) adhered to by Indonesia, as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), necessitates the existence of an independent and impartial judicial system (Rishan, 2022). Within this framework, judicial power must stand free from any form of intervention in order to uphold law and substantive justice. This independence is guaranteed by Article 24 of the UUD NRI 1945 and reinforced by Law Number 48 of 2009 concerning Judicial Power (Malleon, 2002). In the context of Indonesia's post-reform constitutional system, the Constitutional Court serves as a strategic organ of judicial authority, particularly in safeguarding the supremacy of the constitution and the constitutional rights of citizens. Nevertheless, the existence of the Constitutional Court is not immune to demands for ethical and moral accountability of its justices (Sunnqvist, 2022).

Previous studies have highlighted the problems related to ethical oversight of Constitutional Court justices. For instance, a study by Ujang Bahar focused on the limitations of the Judicial Commission's authority in supervising constitutional justices. (Ujang Bahar, 2018) Other research, such as studies published by the Constitutional Court and the Center for Legal Studies at the Islamic University of Indonesia (UII), examined the effectiveness of Constitutional Court Regulations (PMK) in establishing the Honorary Council of the Constitutional Court (MKMK). However, these studies have generally remained within the boundaries of formal juridical analysis and have not critically examined the inconsistency between ethical norms and the imposition of sanctions particularly in the recent case involving Anwar Usman. Therefore, a research gap exists concerning the disharmony between positive norms and their implementation in the ethical oversight system for constitutional justices. This study offers a novelty in the form of a reconstructive approach to the resolution mechanism of ethical code violations within the Constitutional Court, emphasizing the alignment between legal substance and its application in maintaining the integrity of constitutional justice. The inconsistency in the application of ethical norms, as reflected in the decision of the Honorary Council of the Constitutional Court (MKMK) No. 2/MKMK/L/11/2023, has raised serious public concerns regarding the accountability of the Constitutional Court. In that decision, Justice Anwar Usman was found guilty of a serious ethical violation, yet was merely dismissed from his position as Chief Justice, without being honorably discharged as a constitutional justice, as should have been mandated under Constitutional Court Regulation (PMK) No. 4 of 2012 and Law No. 7 of 2020. This misalignment directly impacts the credibility of the constitutional judiciary and has the potential to undermine public trust in the principles of impartiality and institutional integrity. Therefore, reconstructing the ethical oversight system for Constitutional Court justices has become an urgent necessity to ensure the consistent and integrity-driven enforcement of justice. This research focuses on a key legal issue, namely the discrepancy between the ethical norms stipulated in existing regulations and their implementation in the current system for resolving ethical code violations by Constitutional Court justices. It also seeks to explore how an ideal model of ethical oversight can be reconstructed to ensure the integrity of the constitutional institution. The objective of this study is to analyze the disharmony between positive legal norms and the practical handling of ethical violations by Constitutional Court justices, and to formulate a reconstructed model of ethical oversight that is more consistent, transparent, and accountable in upholding the integrity of constitutional justice

2. Materials and Methods

This research is a normative legal study, which is grounded in the examination of written legal norms as the primary object of analysis (Irwansyah, 2020). Within this approach, law is understood as a set of prescriptive norms; therefore, the analysis focuses on how legal norms are formulated, interpreted, and implemented consistently within the framework of the national legal system (Peter Mahmud Marzuki, 2011). This research is not merely descriptive of positive legal provisions, but also evaluative and constructive in identifying the inconsistencies between legal norms and their practical implementation, particularly in the context of resolving ethical code violations committed by Constitutional Court justices.

Methodologically, this research employs three main approaches in an integrated manner. First, the statute approach is used to examine relevant legal instruments, ranging from the 1945 Constitution of the Republic of Indonesia, Law Number 24 of 2003 concerning the Constitutional Court (and its subsequent amendments), to various Constitutional Court Regulations governing the establishment and operational mechanisms of the Honorary Council of the Constitutional Court (MKMK). Second, the case approach is applied to conduct an in-depth analysis of decisions related to ethical violations by constitutional justices, particularly Decision No. 2/MKMK/L/11/2023, which serves as a critical turning point in the dynamics of ethical code enforcement within the Constitutional Court. Third, the conceptual approach is employed to elaborate on foundational principles such as the independence of judicial power, judicial impartiality, and ethical accountability within the constitutional justice system.

The data sources in this research consist of primary and secondary legal materials. Primary legal materials include legislation, decisions of the Constitutional Court and the Honorary Council of the Constitutional Court (MKMK), as well as other official documents that carry binding normative authority (Zuhdi et al., 2025). Meanwhile, secondary legal materials consist of scholarly literature, legal journal articles, and relevant expert opinions, which are utilized to strengthen the argumentation and provide a comprehensive theoretical perspective (Zuhdi & Kamula, 2024). All data are analyzed qualitatively using a deductive legal reasoning method, so that the findings of this research are not only descriptive-analytical in nature but also oriented toward the formulation of a reconstructive model for resolving ethical code violations within the Constitutional Court.

3. Results and Discussion

3.1. Strengthening the institutional independence of the honorary council of the Constitutional Court

In a state governed by the rule of law, the existence of an independent judiciary is a fundamental prerequisite for upholding law and substantive justice. Judges, as central figures within the judicial system, are entrusted with the responsibility to resolve disputes and to ensure the protection of citizens' rights and freedoms. (McKeown, 2021) This role positions judges as the guardians of justice within society. Within the framework of judicial power in Indonesia, the Constitutional Court holds a strategic position as the final interpreter of the Constitution. Consequently, the integrity of its justices must be safeguarded through a robust ethical oversight mechanism. However, like other state institutions, the Constitutional Court is not immune from ethical issues involving its internal actors. This underscores the critical need for continued oversight of constitutional justices while at the same time preserving the core principle of judicial independence. Following the Constitutional Court's Decision No. 005/PUU-IV/2006, which ruled that oversight by the Judicial Commission cannot be applied to constitutional justices, an internal oversight mechanism was established through the formation of the Honorary Council of the Constitutional Court (MKMK) (MKMK) (Wiryanto et al., 2017).

The establishment of the Honorary Council of the Constitutional Court (MKMK) marked the beginning of an internal ethical oversight system within the Constitutional Court. In its subsequent development, the Court established an Ethics Council as a permanent body responsible for daily oversight. The presence of the Ethics Council was essentially a response to the Constitutional Court's internal need following several ethical scandals that damaged the institution's credibility most notably, the case involving former Chief Justice Akil Mochtar (Yudanto et al., 2024). However, from the outset, the role and function of the Ethics Council lacked a legal foundation in statutory law and were instead based solely on internal regulations of the Court. This absence of legislative grounding has weakened its authority, particularly when dealing with cases of a sensitive nature or those involving structural interests within the Constitutional Court itself. There are several obstacles that weaken the function of internal oversight. For instance, the quality and transparency standards in the examination process of ethical violations remain low, and there is no effective channel for the public to openly report alleged misconduct (Frost, 2013). In addition, close interpersonal relationships among justices particularly within a small institutional environment like the Constitutional Court can give rise to conflicts of interest and internal solidarity that ultimately hinder accountability.

In practice, the oversight carried out by the Ethics Council tends to be limited to the submission of preliminary reports and recommendations, while the authority to impose sanctions remains with the Honorary Council of the Constitutional Court (MKMK), which is formed on an ad hoc basis. This structure leaves a grey area, particularly regarding who holds the authority to form the MKMK and how the selection process can truly be free from internal interference. For example, when the Chief Justice plays an administrative role in forming the MKMK, a power imbalance is highly likely to occur especially when the person under investigation is the highest-ranking official within the institution (Suparto et al., 2024).

Given this situation, there is a need to reconsider how ethical oversight within the Constitutional Court is constructed. One approach that could be developed involves strengthening the institutional independence of both the Ethics Council and the Honorary Council (MKMK) themselves. Repositioning the Ethics Council as a body that operates more autonomously from the Constitutional Court's administrative structure could enhance the neutrality of its oversight functions. Composing its membership with external figures who possess a proven track record of integrity and an in-depth understanding of judicial ethics would also enhance the institution's legitimacy in the eyes of the public (Geyh, 2023). Furthermore, the provision of an independent budget and technical support would significantly reinforce the capacity of the Ethics Council to carry out its duties professionally. Moreover, the mechanism for establishing the Honorary Council of the Constitutional Court (MKMK) should ideally be carried out through a transparent and inclusive procedure. Under current practice, the formation of the MKMK is conducted internally by the Constitutional Court, which under certain circumstances may raise doubts about its independence (Hanych et al., 2023). A selection process that involves external stakeholders such as academics, public figures, or representatives of independent ethics bodies could serve as an alternative to ensure a higher level of accountability in the oversight process.

Although the Constitution does not explicitly provide provisions regarding ethical oversight of Constitutional Court justices, a closer examination reveals that Article 24B of the 1945 Constitution (UUD NRI 1945) offers a normative basis for the existence of the Judicial Commission, a body tasked with upholding the honor and conduct of judges. While the Constitutional Court has ruled that the Judicial Commission has no authority over constitutional justices, the spirit of oversight remains embedded in the constitutional framework. The phrase "judicial conduct" (*perilaku hakim*) is not explicitly limited to Supreme Court justices, and thus, in theory, could encompass all

judges under judicial authority, including those serving on the Constitutional Court. The Constitutional Court's decision in Case No. 005/PUU-IV/2006 legally severed the supervisory relationship between the Judicial Commission and the Constitutional Court. However, from the perspective of a sound oversight system in a democratic rule-of-law state, such disconnection poses a significant risk of ethical control weaknesses over an institution as powerful as the Constitutional Court. Therefore, reconstruction should not merely entail the creation of new institutions, but rather focus on strengthening existing structures through reforms that enhance their independence, accountability, and transparency.

Table 1. Green election implementation model

Aspect	Constitutional Court Judge	Supreme Court Judge
Supervisory Body	Honorary Council of the Constitutional Court	Court
Legal basis	Law No. 7 of 2020	Law No. 3 of 2009 and Law No. 18 of 2011
Nature of Supervision	Internal and ad hoc, formed when there is a report	The combination of internal (MA) and external (KY), is structural and sustainable
Scope	Limited to ethics and behavior	Covering ethics, behavior and judicial techniques
Mechanism	Passive, waiting for report for MKMK formation	Active (KY can carry out direct monitoring) and responsive to public reports
Supervisory Composition	A mix of MK judges and external figures, formed by the Chief Justice of the MK	KY Commissioners are selected by the DPR, and MA structural officials
Sanctions	Reprimand up to dismissal from the position of Chairman/Deputy Chairman of the Constitutional Court	Warnings up to recommendations for dismissal by the Supreme Court at the request of the KY
Transparency and Public Participation	Limited, the public can only complain	Relatively open, with public reporting and monitoring channels
Appeal Mechanism	Not available; MKMK's decision is final	There is a mechanism for objections to KY recommendations

In comparative terms, the oversight system for Supreme Court justices is far more structured, as it involves both internal (the Supreme Court) and external (the Judicial Commission) mechanisms. In contrast, oversight of Constitutional Court justices tends to be passive and internally confined. Public involvement is also limited, unlike the Judicial Commission's mechanisms, which are more open to public participation.

This fundamental difference between the two oversight systems highlights the urgent need for governance reform in ethical oversight within the Constitutional Court. The objective is not to interfere with the institution's independence, but rather to ensure that the principles of accountability are consistently upheld. Reconstructing the oversight system is essential for restoring public trust in the Constitutional Court, particularly in light of the ethical controversies involving constitutional justices in recent years.

3.2. Regulation of the appeals mechanism and the principle of finality in ethical decisions

In Indonesia's constitutional judicial ethics system, the tension between the principle of finality and the need for a corrective mechanism has become increasingly relevant—particularly following the abolition of the Constitutional Court's Honorary Appeals Council (MKBMK). When ethical rulings are declared final with no avenue for review, it raises normative concerns affecting procedural justice, institutional

accountability, and institutional legitimacy (Ojiako, 2023). On one hand, swift and binding ethical decisions are seen as essential to uphold the stability and dignity of the institution. On the other hand, the absence of any corrective pathway for potentially flawed decisions creates a legal uncertainty gap, which may undermine the very justice such decisions are meant to protect. This issue becomes even more complex when ethical rulings have far-reaching implications for the constitutional order. Ethical code violations that occur in sensitive contexts, such as general elections, create a pressing need for procedural safeguards that are not only swift but also fair and subject to review. When there is only a single-tier ethical ruling with no possibility of appeal, concerns arise that such decisions are made behind closed doors, without adequate checks and balances (Fisher, 2017). Therefore, it is essential to reassess the position of the principle of finality in the context of ethical oversight within the Constitutional Court and to consider the urgent need for redesigning an appeals mechanism that ensures greater fairness, transparency, and legitimacy.

Within the framework of the rule of law, judicial independence is recognized as a non-negotiable foundation. However, such independence must not be interpreted as absolute freedom without oversight. As affirmed in the Law on Judicial Power, the role of judges is not only to uphold the law and justice but also to align their reasoning with the living social values of the community. Therefore, when ethical oversight mechanisms fail to provide avenues for evaluation, procedural justice is at risk of being undermined by the system's lack of transparency. Most modern legal doctrines including the perspectives of Jan Michiel Otto and Lon Fuller emphasize the importance of legal certainty that is not only substantive but also procedural (Gusarov & Terekhov, 2019). This implies that legal rules must not only be predictable but also subject to review through lawful procedures. In this context, the establishment of an Honorary Appeals Council becomes highly relevant as an embodiment of the principle of due process of law. Such a council could serve as a forum to objectively reassess first-instance ethical decisions, particularly in cases of high complexity or those with potentially broad institutional consequences.

The absence of an appeals mechanism also poses challenges in ensuring accountability and the principle of checks and balances. Without an appeals forum, ethical oversight becomes a closed and unilateral process. This, in turn, can diminish the quality of decision-making and create greater space for bias and subjectivity (Rothfeld, 2014). Conversely, the presence of an appellate body can strengthen internal oversight through a balanced mechanism of review. In this regard, Hans Kelsen's theory on the importance of the hierarchy of norms provides a foundational argument that every ethical ruling must be subject to structural correction to ensure its alignment with higher legal principles. Ethical oversight is not limited to formal rules but also touches upon personal integrity and institutional reputation. In this context, an Honorary Appeals Council could serve as a corrective body to address potential errors in prior decisions without compromising judicial independence. On the contrary, its existence would enhance perceptions of objectivity and public legitimacy regarding the decisions rendered.

Criticism of the absence of an appeals mechanism also intensifies when viewed through the lens of sanction proportionality. According to Robert Alexy, sanctions in the enforcement of law must satisfy the principles of suitability, necessity, and proportionality. Therefore, without a forum to assess whether a given sanction corresponds appropriately to the severity of the violation, there can be no guarantee that punishment is administered proportionally (Alexy, 2010). This concern becomes even more pressing in the context of ethical violations, where issues of personal reputation and a judge's professional career are at stake. In such cases, substantive justice must be carefully balanced with stringent procedural safeguards.

Beyond legal and theoretical considerations, social dimensions also play a critical role. In democratic societies, the legitimacy of a decision is not determined solely

by its legal substance, but also by the process through which it is reached. Jürgen Habermas's discourse theory posits that legal legitimacy emerges from rational and open deliberative processes. Accordingly, the establishment of an appeals body with an inclusive composition featuring external elements such as academics, public figures, or former constitutional justices could serve as a platform for deliberative review of ethical decisions, while also reinforcing public trust in the integrity of the institution (Vanberg, 2015).

Various perspectives from prominent national legal scholars such as Bagir Manan, Saldi Isra, Jimly Asshiddiqie, and Artidjo Alkostar fundamentally emphasize that ethical oversight of constitutional justices must be governed by the principle of prudence. They do not oppose the notion of oversight; rather, they underscore the importance of mechanisms that are fair, objective, and free from any appearance of political interference. It is within this context that an appeals body becomes a vital element of the ethical system serving not only to impose sanctions, but also to guarantee justice for all parties involved. To realize such a system, it is necessary to design an institutional model for the Honorary Appeals Council that meets several key criteria. First, in terms of composition, its membership must be independent from the Constitutional Court's organizational structure and consist of individuals with a strong reputation for ethical integrity. Second, its mandate must be clearly defined and limited to specific issues such as due process and the proportionality of sanctions, in order to avoid overlap with the first-instance Honorary Council. Third, its procedures must be transparent and accountable, with clear standards of review and strict timeframes. Fourth, there must be mechanisms to prevent conflicts of interest, including mandatory recusal of appellate members in cases where personal or institutional relationships with the reported justice exist.

With a well-designed institutional framework, the re-establishment of the Honorary Appeals Council will not delay the ethical review process; rather, it will serve as an integral component of a fair, objective, and rule-of-law-based oversight system (Fakhriyah Garnita et al., 2024). In this regard, the primary objective is not merely to provide an appeals channel for the reported justice, but to create an ethical process that is more transparent, accountable, and publicly legitimate, thereby contributing to the strengthening of the Constitutional Court's legitimacy.

The Application of the Principle of Judicial Independence is as follows:

1. Constitutional justices must perform their judicial functions independently, based on an assessment of facts, and must resist external influences in the form of inducements, promises, pressure, threats, or interference whether direct or indirect from any party and for any reason, in accordance with their thorough understanding of the law.
2. Constitutional justices must remain independent from public pressure, mass media influence, and the parties involved in any case under their adjudication.
3. Constitutional justices must safeguard their independence from the influence of the executive, legislative, and other state institutions.
4. In carrying out their judicial duties, constitutional justices must be independent from peer pressure or influence from fellow justices in the decision-making process.
5. Constitutional justices must promote, uphold, and strengthen the guarantees of judicial independence, both individually and institutionally, in the execution of their duties.
6. Constitutional justices must preserve and exhibit an image of independence, and advance high standards of conduct in order to strengthen public confidence in the Constitutional Court.

The process of resolving ethical code violations by constitutional justices is not a static system, but one that continues to evolve in response to experiences and lessons

learned from past cases. The Constitutional Court periodically conducts evaluations and reforms of its ethical oversight system for constitutional justices (Haris, 2024). These evaluations and improvements are carried out to address emerging developments and challenges, as well as to enhance the effectiveness of preventing and responding to ethical violations. (Anwar Usman, 2020) Several reforms have included the strengthening of the Ethics Council's capacity, the refinement of regulations concerning the code of ethics and enforcement procedures, and the enhancement of transparency in the oversight process.

The abolition of the Honorary Appeals Council within the ethical oversight system of Constitutional Court justices has sparked academic discourse regarding its implications for the enforcement of judicial ethics. Although this removal was intended to accelerate the resolution of ethical violations and to reinforce the finality of decisions made by the Honorary Council, an analysis grounded in the theory of legal certainty reveals substantive weaknesses that may undermine the integrity and accountability of the ethical oversight framework. This paper analyzes the urgency of re-establishing the Honorary Appeals Council of the Constitutional Court based on the theory of legal certainty (Hadiati, 2024). In this context, legal certainty encompasses not only the presence of clear and consistent rules, but also includes a procedural dimension that ensures the operation of a fair legal process (due process of law).

According to Jan Michiel Otto, legal certainty is a multidimensional concept that encompasses five essential elements. First, it requires the existence of clear and consistent legal rules that provide predictability for both the state and its citizens. Second, these rules must be consistently applied by state institutions, ensuring uniform enforcement across similar cases. Third, public compliance with the law is a vital indicator that legal norms are recognized and respected within society. Fourth, legal certainty demands independent and impartial judicial decisions, free from political or external interference. Finally, there must be certainty in the implementation of judicial decisions, so that court rulings are not only declarative but also effectively enforced. Together, these dimensions form the foundation of a legal system that aspires to uphold the rule of law and deliver justice in both substance and procedure (Otto, 2000). Lon Fuller reinforces this concept by articulating eight principles of legality, which serve as the moral foundation of a functioning legal system. Among these principles is the requirement that there must be mechanisms available to correct errors in the application of rules. This principle reflects the understanding that no legal system is infallible, and therefore, procedural safeguards such as appeal mechanisms are essential to uphold justice, accountability, and public trust. Fuller's framework underscores that legal systems must not only prescribe norms but also ensure that those norms are applied fairly and are subject to review when misapplied, thereby aligning legality with legitimacy (Woozley & Fuller, 1966).

Based on the above analysis, the re-establishment of the Constitutional Court's Honorary Appeals Council must take into account several key aspects of institutional design. First, the composition of its membership should be independent and free from the internal dynamics of the Constitutional Court. This composition may include former constitutional justices, constitutional law scholars, and public figures with proven integrity. Second, the Council must have clear and limited authority to prevent overlapping with the jurisdiction of the first-instance Honorary Council. Its powers should focus on evaluating adherence to the principle of due process of law and the proportionality of sanctions (Maruarar Siahaan, 2006). Third, its procedures must be transparent and accountable, with clearly defined operational rules, including the timeframe for examination, the rights of the reported justice, standards of proof, and the decision-making process (Al Amin Syayidin Ali Mustopa, 2022). Fourth, there must be an effective conflict-of-interest prevention mechanism. This includes regulations on the recusal of Honorary Appeals Council members who may have personal or institutional connections to the case under review (Tirado, 2024).

The reestablishment of the Constitutional Court's Honorary Appeals Council finds strong justification within the framework of legal certainty theory. An appeals mechanism is a concrete manifestation of the principle of due process of law reinforcing accountability and the system of checks and balances, addressing the risks of subjectivity and bias, ensuring the proportionality of sanctions, and enhancing the legitimacy of ethical rulings. With an appropriate institutional design, the Honorary Appeals Council can strengthen the ethical oversight system of constitutional justices without undermining the efficiency and effectiveness of the ethical adjudication process. Ethical supervision of constitutional justices must be conducted through mechanisms that uphold judicial independence while simultaneously ensuring adequate accountability (Angela Dewi, 2024). In this regard, the Honorary Appeals Council may serve as a procedural safeguard for reported justices and, at the same time, enhance the accountability and legitimacy of the Constitutional Court as the guardian of the Constitution.

4. Conclusions

The reconstruction of the ethical oversight system for Constitutional Court justices constitutes an urgent necessity in order to strengthen the institutional integrity of constitutional justice in Indonesia. The current internal oversight system, operated through the Ethics Council and the Honorary Council of the Constitutional Court (MKMK), continues to face various structural and substantive challenges. Low standards of integrity, lack of transparency, ineffective complaint mechanisms, and weak internal commitment to follow up on oversight outcomes reflect the pressing need for a comprehensive reformulation of the existing oversight model.

This reconstruction should begin with the strengthening of institutional independence by repositioning the MKMK structurally so that it is free from internal administrative interference. Fundamental steps toward building a credible and accountable oversight system include: reforming the composition of the MKMK by increasing the number of independent external members, ensuring an autonomous budget and secretariat, and transforming the appointment process of MKMK members into a more transparent and participatory mechanism. In doing so, ethical oversight of constitutional justices will not merely serve as a procedural formality, but rather as a substantive instrument to uphold the dignity of the Constitution.

On the other hand, the abolition of the appeals mechanism for ethical decisions has created legal ambiguity and has undermined guarantees of a fair legal process. In this context, the re-establishment of the Honorary Appeals Council is highly important—not only as a corrective instrument, but as a manifestation of the principle of due process of law. This body would serve as an internal counterbalance that enhances accountability, reduces the potential for bias, ensures the proportionality of sanctions, and increases the public legitimacy of ethical decisions. The ideal institutional design of the Honorary Appeals Council must include an independent membership structure, clearly defined and limited powers, transparent and accountable procedures, and effective mechanisms for preventing conflicts of interest. By strengthening the design of the ethical oversight system in a way that reflects the values of justice, objectivity, and accountability, the Constitutional Court will be better positioned to maintain its integrity as the guardian of the Constitution and protector of the constitutional rights of Indonesian citizens.

References

- Al Amin Syayidin Ali Mustopa. (2022). Pelaksanaan Sistem Pengawasan Hakim Konstitusi di Indonesia. *Jurnal Konstitusi Dan Demokrasi*, 2(2). <https://doi.org/10.7454/JKD.v2i2.1209>
- Alexy, R. (2010). *A theory of constitutional rights*. Oxford university press.
- Angela Dewi, H. (2024). Sinergisitas Perencanaan dan Penganggaran Pemerintah Pusat dan Daerah. *Peradaban Hukum Nusantara*, 1(1), 19–36. <https://doi.org/10.30605/phn.v1i1.1209>

[org/10.62193/6hwpz523](https://doi.org/10.62193/6hwpz523)

- Anwar Usman. (2020). Sambutan Ketua Mahkamah Konstitusi, Laporan Tahunan Mahkamah Konstitusi 2019. *Kepaniteraan Dan Sekretariat Jenderal Mahkamah Konstitusi*, 5.
- Fakhriyah Garnita, C., Dwi Astuti, H., & Mulyana, A. (2024). Legal Analysis and Social Impact of Environmental Policy in the Modern Era Relating to Plastic Waste. *Peradaban Hukum Nusantara*, 1(1), 75–95. <https://doi.org/10.62193/x3t6k281>
- Fisher, L. (2017). The Claim of Judicial Finality: Theory Undercut by Experience. *University of New Hampshire Law Review*, 16, 305.
- Frost, A. (2013). Judicial Ethics and Supreme Court Exceptionalism. *Georgetown Journal of Legal Ethics*, 26, 443.
- Geyh, C. G. (2023). Judicial Ethics and Identity. *Georgetown Journal of Legal Ethics*, 36, 233.
- Gusarov, K., & Terekhov, V. (2019). Finality of Judgments in Civil Cases and Related Considerations: The Experience of Ukraine and Lithuania. *Access to Justice in Eastern Europe*, 2019, 6.
- Hadiati, D. (2024). Legal Protection for Online Transportation Service Drivers as Platform Workers in Indonesia. *Peradaban Hukum Nusantara*, 1(1), 37–58. <https://doi.org/10.62193/245kqc30>
- Hanych, M., Smekal, H., & Benak, J. (2023). The Influence of Public Opinion and Media on Judicial Decision-Making: Elite Judges' Perceptions and Strategies. *International Journal for Court Administration*, 14, 1.
- Haris, M. M. (2024). Juridical Analysis of Non-Profit Principles in The Formation of Business Entities by Foundations. *Peradaban Hukum Nusantara*, 1(1), 129–143. <https://doi.org/10.62193/fk17g819>
- Irwansyah, I. (2020). Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel. Yogyakarta: Mirra Buana Media, 8.
- Malleson, K. (2002). Safeguarding judicial impartiality. *Legal Studies*, 22(1), 53–70. <https://doi.org/10.1111/j.1748-121X.2002.tb00579.x>
- Maruarar Siahaan. (2006). Hukum Acara Mahkamah Konstitusi Republik Indonesia (Edisi Revisi). Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi R.
- McKeown, M. M. (2021). Politics and Judicial Ethics: A Historical Perspective. *Yale Law Journal Forum*, 131, 190.
- Ojiako, U. (2023). A Constitutional Perspective of the Finality Principle in Arbitration. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 15(1), 04522030. [https://doi.org/10.1061/\(ASCE\)LA.1943-4170.0000579](https://doi.org/10.1061/(ASCE)LA.1943-4170.0000579)
- Otto, J. M. (2000). Reële rechtszekerheid in ontwikkelingslanden.
- Peter Mahmud Marzuki. (2011). Penelitian Hukum. Kencana Prenada Media Group.
- Rishan, I. (2022). Doubting the Impartiality: Constitutional Court Judges and Conflict of Interest. *Jurnal Jurisprudence*, 12(1), 92–105. <https://doi.org/10.23917/jurisprudence.v12i1.1058>
- Rothfeld, C. (2014). Should the Supreme Court Correct Its Mistakes? *Harvard Law Review Forum*, 128, 56.
- Sunnqvist, M. (2022). Impartiality and Independence of Judges: The Development in European Case Law. *Nordic Journal of European Law*, 5(1), 67–95. <https://doi.org/10.36969/njel.v5i1.24499>
- Suparto, S., Hyeonsoo, K., Hardiogo, D., & Syafrinaldi, R. F. (2024). Enhancing External Oversight of Constitutional Judges: A Study on the Role of the Judicial Commission in Indonesia and South Korea. *Lex Scientia Law Review*, 8(1), Article 1. <https://doi.org/10.15294/lslr.v8i1.14140>
- Tirado, J. P. A. (2024). Regulating the Court That Regulates Everything, Except Itself: An Analysis of the United States Supreme Court's Code of Ethics and Recommendations on How to Enforce It. *Revista Juridica Universidad de Puerto Rico*, 93, 467.

- Ujang Bahar. (2018). Strengthening the Roles of Judicial Commission. *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 5(2), 387–401. <https://doi.org/10.22304/pjih.v5n2.a10>
- Vanberg, G. (2015). Constitutional Courts in Comparative Perspective: A Theoretical Assessment. *Annual Review of Political Science*, 18(1), 167–185. <https://doi.org/10.1146/annurev-polisci-040113-161150>
- Wiryanto, Bakri, M., Ruba'i, M., & Djatmika, P. (2017). Reconstruction of Ethics Supervision System towards Constitutional Court Justice. *Constitutional Review (Consrev)*, 3, 43.
- Woozley, A. D., & Fuller, L. L. (1966). The Morality of Law. *The Philosophical Quarterly*, 16(62), 89. <https://doi.org/10.2307/2217903>
- Yudanto, D., Firdaus, S. U., & Isharyanto, I. (2024). The Requirements of the Statesman Principle Of The Honorary Council of the Constitutional Court as the Guardian Of Ethics. In A. K. Jaelani, I. Irwansyah, F. Fernhout, A. A. Paolini, M. R. Palil, H. Tegnan, O. Parama Astirin, S. Sutarno, P. Covarrubia, B. Sobirov, & R. Rahim (Eds.), *Proceedings of the International Conference on Cultural Policy and Sustainable Development (ICPSD 2024)* (Vol. 869, pp. 605–611). Atlantis Press SARL. https://doi.org/10.2991/978-2-38476-315-3_82
- Zuhdi, A., Ablamskyi, S., & Anggara, A. (2025). Judicial Review of Presidential Threshold Decisions: The Dynamics of Constitutional Injury. *Kosmik Hukum*, 25(1), 48. <https://doi.org/10.30595/kosmikhukum.v25i1.24476>
- Zuhdi, A., & Kamula, A. A. (2024). Legitimasi Hukum Asing Sebagai Pertimbangan Putusan oleh Mahkamah Konstitusi: Perbandingan Antara Indonesia dan Afrika Selatan. *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang*, 7(2), 272–296. <https://doi.org/10.33474/yur.v7i2.21634>