

JUDICIAL INDEPENDENCE: UNCONSTITUTIONAL APPOINTMENT AND DISMISSAL OF CONSTITUTIONAL COURT JUDGES

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Abstract: An independent judicial system improves the quality of justice. The Constitutional Court tests laws against the constitution and has invalidated many laws of the House of Representatives. The research method employed is the normative juridical approach, formulated and advanced following theoretical principles. Normative juridical research methods primarily focus on data collecting through literature-based investigations, utilising materials accessible in libraries, archives, and other databases. Normative legal research mainly involves the examination and analysis of secondary data. Judges are appointed by the DPR, the Supreme Court and the President. This article explores the dismissal and appointment of constitutional judges for the sake of judicial independence. Former Constitutional Court judges Akil Mochtar and Patrialis Akbar were replaced. Both were dismissed as Constitutional Court judges for committing corruption. In contrast, Constitutional Judge Aswanto is law-abiding. The DPR, which considers the judge, has canceled many legal products made by the DPR. The unconstitutional actions of the DPR and the president undermined the division of power between the legislature, executive and judiciary and undermined the independence of the constitutional court.

INTRODUCTION

Considerable literature shows that an independent judicial system improves the quality of justice. Judges are independent authorities that administer justice and uphold law and justice. Ensuring fairness, truth, and legal predictability through an autonomous judicial institution can protect society (Kovács & Scheppele, 2018). Following Pancasila values, upholding civilised nations' legal principles to ensure equality. The Constitutional Court (MK) reviews Basic Law with legislation. After reviewing a legislative product, the Constitutional Court invalidated many House of Representatives (DPR) laws. The constitutional court ruled that many DPR laws violated the Constitution. The Constitutional

Court has had to adapt to new political circumstances, reflecting political uncertainty and how judges view their duties.

President, DPR, and Supreme Court nominate MK Constitutional Court judges. The balance of power procedure gives the DPR parliament career judges from the Judicial Commission and Supreme Court. Parliament can confirm or deny judges. The nominee is presidentially appointed. Proper testing and parliament approval. Authority is balanced across branches. Management competence, expertise, vision, purpose alignment, and integrity determine candidate merit and suitability (Beenstock & Haitovsky, 2004). Judges are appointed by the DPR, Supreme Court, and President. The process values objectivity, accountability, transparency, and openness. Article 20, paragraph 1 of Law Number 7 of 2020 has caused each institution to interpret and apply the law subjectively, not transparently, accountably, or objectively. It allows the government and the DPR to intervene against Constitutional Judges. The DPR and government pick State institutions and Constitutional Court judges may clash. Constitutional effectiveness requires de jure and de facto compliance.

Constitutional Court Decision 103/PUU-XX/2022 started this unconstitutional action. One applicant challenged Article 87b of Law No.7 of 2020, which reconstituted Constitutional Court judges. Extended from 5 to 70 years, maxing out at 15. Judges who violated Article 23 of Law No. 7 of 2020 were reinstated by the Constitutional Court under Article 87. The Constitutional Court considered notifying DPR supporters. Judge terms will continue because Law No. 7 of 2020 and Constitutional Court Decision 103/PUU-XX/2022 do not periodize them. The House assumes the Constitutional Court's letter requests House-nominated judge endorsement. Commission III fired the judge in plenary because he often overturned DPR decisions. The House of Representatives found him contradictory for frequently cancelling Constitutional Court-tested laws. The House of Representatives Commission III Chairman said Judge Aswando's dismissal was politically motivated and would be justified later. Constitutional Court judges decide without legal basis or regular evaluation using inconsistent criteria.

The DPR's arbitrariness shows that the 1945 Constitution (UUD 1945) is no longer a guide. The DPR's dismissal of Constitutional Court judges shows their ahistorical view of their laws. The odd mechanism violates Article 23 of Law Number 7 of 2020 on the Constitutional Court (MK Law). Unqualified, honourably, or dishonourably dismissing Constitutional Court judges can be unconstitutional. The appointment of substitute judges made by the president is contrary to Article 19 of Law Number 24 of 2003 concerning the Constitutional Court, which reads, "The nomination of constitutional judges is carried out in a transparent and participatory manner" so that this can be said that it cannot guarantee the existence of the independence of the institution of judicial power.

Dismissal and appointment of non-unconstitutional Constitutional Court judges can affect law review independence. This article examines constitutional judge dismissals for judicial independence. Political influence must not influence judicial power. A sound and efficient legal system is essential.

Constitutional theory emphasises separation of powers. *Trias Politica* is a teaching that assumes that state power consists of 3 (three) kinds of power: Legislative, Executive, and Judicial. Legislators make laws, executives execute them, and judges prosecute them. The three powers have separate functions and institutions, said Montesquieu. Combining

legislative and executive power in one person or body eliminates freedom because the same president or legislature could pass and enforce tyrannical laws. Legislators create rules, executors implement them, and courts resolve conflicts by applying their norms. The key to separation of powers is checks and balances, where each branch monitors the others. This control balance should prevent independent organ power abuse. High-level state institutions that perform legislative, executive, and judicial functions are equal and coordinate under the coordination and equality principle. This separation of powers prevents state organs from interfering. To prevent state institutions from exceeding their power limits, "checks and balances" will exist between the three axes of power. State institutions will balance power.

Laws limit state power, so officials and citizens must comply. Constitutionalism controls government through oversight and balance. The constraints are time and content. The nature of power in its various forms remains the same. Judicial independence allows judges to act without outside pressure. Such freedom is called individual or outward freedom. Judges must solve problems impartially using the law. We examine Constitutional Court judge appointment and removal for judicial independence. Second, how do we remove constitutional judges for independence?

METHODS

The research method employed is the normative juridical approach, formulated and advanced following theoretical principles. Normative juridical research methods primarily focus on data collecting through literature-based investigations, utilising materials accessible in libraries, archives, and other databases. Normative legal research mainly involves the examination and analysis of secondary data. The difficulties were subsequently examined through secondary data analysis, starting with primary legal sources, such as Indonesia's laws and regulations. In addition, supplementary legal materials include books, scholarly papers, expert legal research findings, articles from legal periodicals, and web reports, particularly those about the agreement on the suspension of prosecution. The three tertiary legal materials encompass resources that explain primary and secondary legal information. The data for this study was gathered by analysing secondary information acquired through examining papers about the research topic. The report was later read using qualitative approaches.

RESULTS AND DISCUSSIONS

A. Position of the Constitutional Court

The Constitutional Court, a stand-alone judiciary, adjudicates state affairs and demonstrates separation of powers. Montesquieu called it Trias Politica. Relationships between state institutions are now horizontal. The highest state institutions were no longer known after the constitutional amendment. In this case, Indonesia's highest state institution is no longer the People's Consultative Assembly ("MPR"). However, it is equal to the President, the People's Representative Council ("DPR"), the Regional Representative Council ("DPD"), the Constitutional Court (MK), the Supreme Court ("MA"), and the Audit Board ("BPK"), see figure 1. and figure 2.

Figure 1. Position of the Constitutional Court before the 1945 Constitutional Amendment

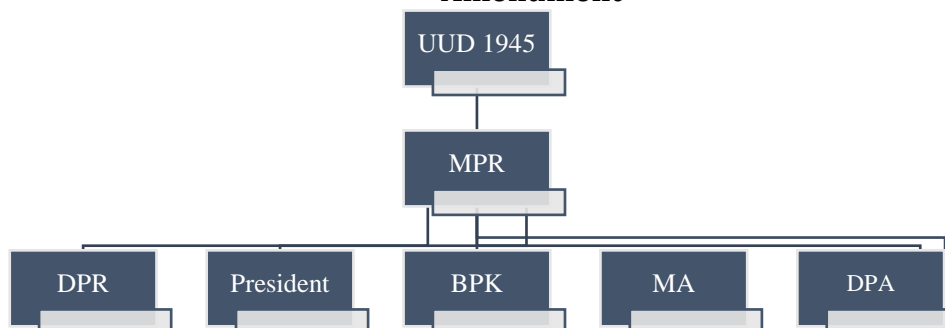
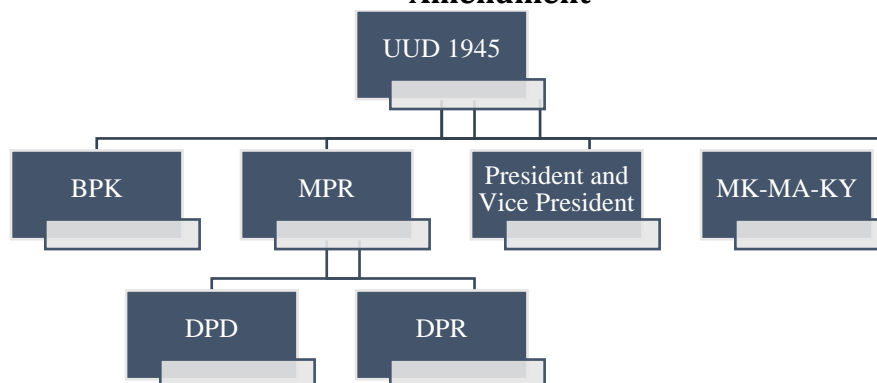


Figure 2. Position of the Constitutional Court after the 1945 Constitutional Amendment



Source: the position of the Constitutional Court under the 1945 Constitution before and after the amendment

The Constitutional Court is known for protecting and interpreting the Constitution. The Constitutional Court upholds democracy, citizen rights, and the Constitution. The constitutional court protects the Constitution by performing several duties:

- a. Constitutional Interpreters
- b. Guardians of Human Rights
- c. Guardians of the Constitution
- d. Enforcers of Democracy

a) Control of the Supervisory institution in the Constitutional Court

Indonesia implemented separation of powers after constitutional reform. Even after two decades, the division of power only checks of state authority. Meanwhile, there is no absolute division of power (Chandranegara & Cahyawati, 2023). UUD 1945 provides checks and balances between branches of power. Constitutional Court monitors. The community ensures external control, while the Constitutional Court apparatus ensures internal control, see Table 1.

Table 1. Supervisory Institute for the Conduct of Constitutional Judges

NO	COMPARISON	ETHICS BOARD	HONORARY ASSEMBLY
1	Position	PMK Number 2 of 2013	PMK Number 1 Year 2013

2	Term	Three years, permanent and non-re-electable	Ad-hoc
3	Formation	chosen by a Selection Committee of three judges in a Plenary Meeting of Judges and by the Constitutional Court Chief Justice by Decree.	Proposed by the Ethics Council to the Constitutional Court and decided by the Chief Justice.
4	Membership	During the meeting, the Selection Committee selects three members. The Plenary of Judges includes: One former Constitutional Judge, one academic, and one public figure.	The Plenary Meeting of Judges elected five members: One Constitutional Judge, one Judicial Commission chairman, and one former state institution head. One retired Supreme Court or Constitutional Justice; One Law Senior Professor.
5	Order	The structure includes a concurrent chairman and two members.	The arrangement includes a chairman, a secretary, and three members.
6	Assignment	Maintain Judges' honour, dignity, and behaviour, as well as their code of ethics and conduct for minor violations.	Honour, dignity, and conduct of judges, as well as ethics and conduct codes. As stated, judges who commit serious offences.

Source: prepared by the author (2023)

b) Independence of the Constitutional Court in the Indonesian Constitutional System

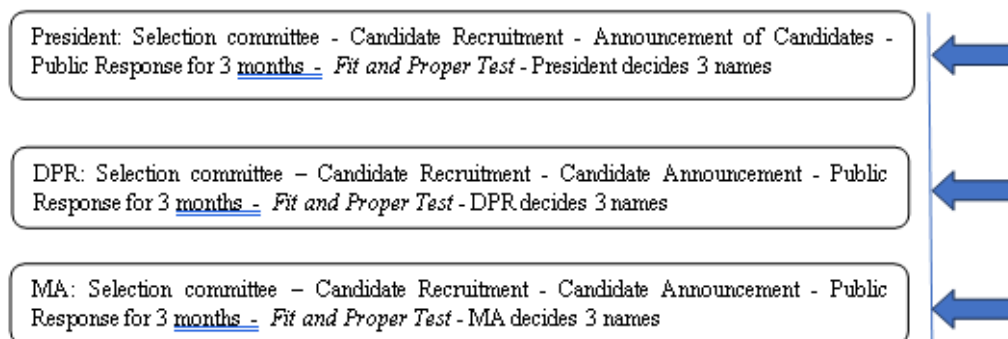
The judiciary can establish and manage a Pancasila-based legal framework to enforce law and justice as a sovereign entity. Indonesian judges are free to exercise power. Some believe judicial independence is unnatural. Therefore, judges' autonomy must be accountable. Judicial freedom does not mean unlimited authority. The judiciary is independent and immune to external interference because it upholds the rule of law and justice. Judges have full autonomy and no restrictions. Oemar Seno Adji believed legal governance requires a fair and independent judiciary. Shimon Shetreet classifies independence as substantive, personal, internal, and collective.

Functional and structural independence ensures judicial power independence. Judges can exercise independence. When there is no institutional coercion or pressure, structural independence is recognised. Extrajudicial interference is illegal. However, it often breaks down. Political interference can still compromise judiciary independence (Lambais & Sigstad, 2023). Sudikno Mertokusumo defines a judge's decision as an authoritative declaration made during a trial to resolve a dispute. Authority, public opinion, and political parties can influence a judge's partiality. Empirical research shows that judges' preferences affect their decisions (Pavón Mediano & Carrasco, 2019; Pickerill & Brough, 2017).

B. Principles of Filling Constitutional Judges

Constitutional judges must be honest and trustworthy. They should be experienced statesmen who understand the Constitution and are not state officials. No matter their speciality, judges must know the Constitution. A nation's primary and supreme legal authority is the Constitution, making it the highest source of law. It implies that the Constitution should always be the primary source of lawmaking, implementation, and enforcement. It also requires adapting the Constitution to modern times to keep it relevant and enable it to govern the state and society.

Figure 3. Mechanism for filling Constitutional Judges in Law

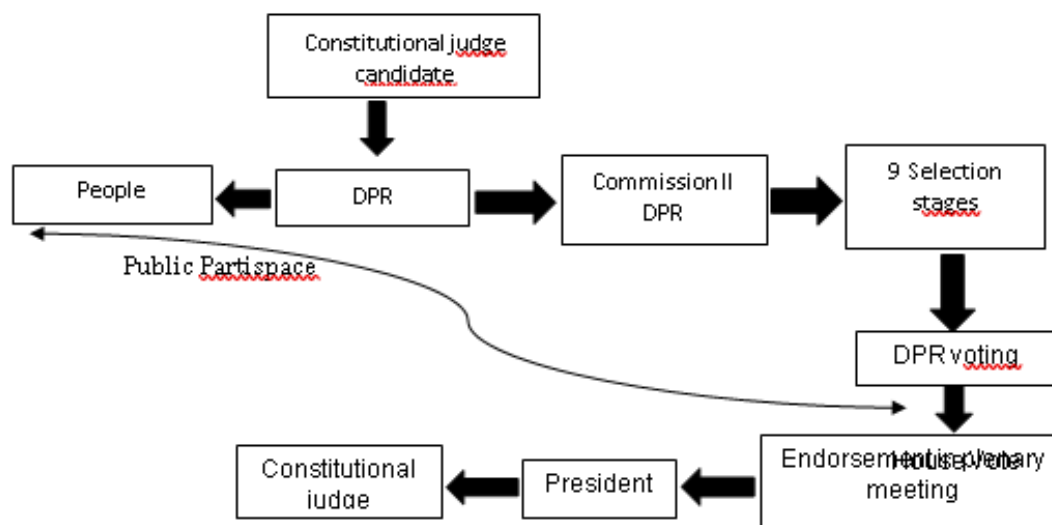


Source: prepared by the author (2023)

C. Constitutional Judge Recruitment Model

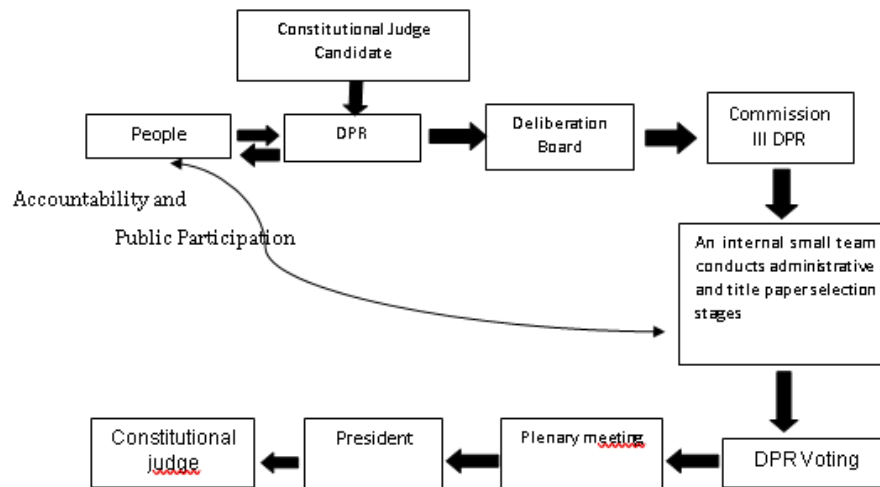
a) Selection of Constitutional Judges by the DPR

Scheme 1 Constitutional judge selection process (Constitutional Judges Jimly Asshidiqie, I Dewa Gede Palguna, and Achmad Roestandi)



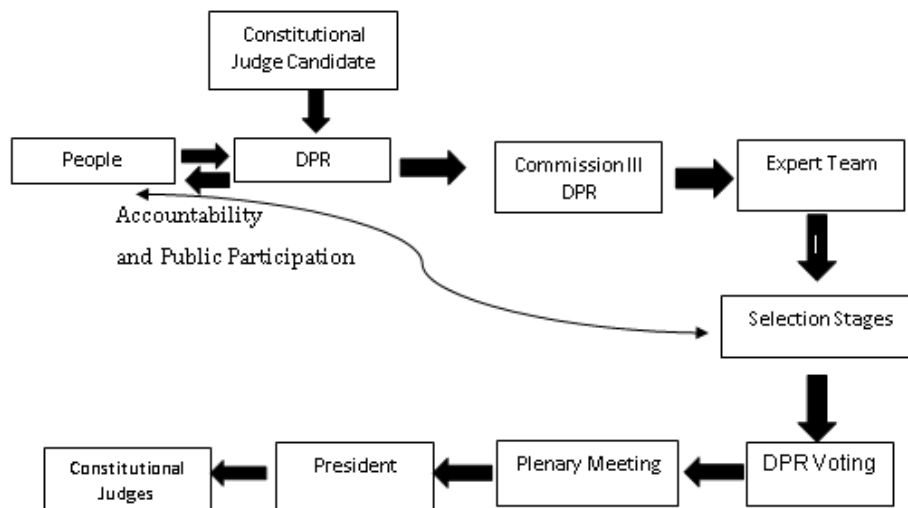
Source: prepared by the author (2023)

Scheme 2 Constitutional judge selection process by DPR (Constitutional Judges Jimly Asshidiqie, Mahfud MD, Akil Mochtar, Harjono replacing Jimly Asshidiqie, Arief Hidayat replacing Mahfud MD)



Source: prepared by the author (2023)

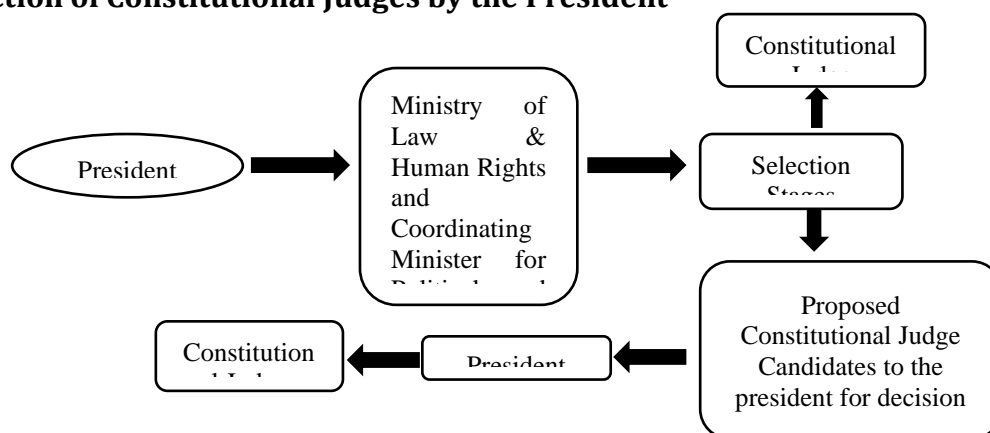
Scheme 3 Selection process for Constitutional judges by the DPR (Constitutional Judge Wahiduddin Adams replaces Akil Mochtar, Aswanto replaces Harjono)



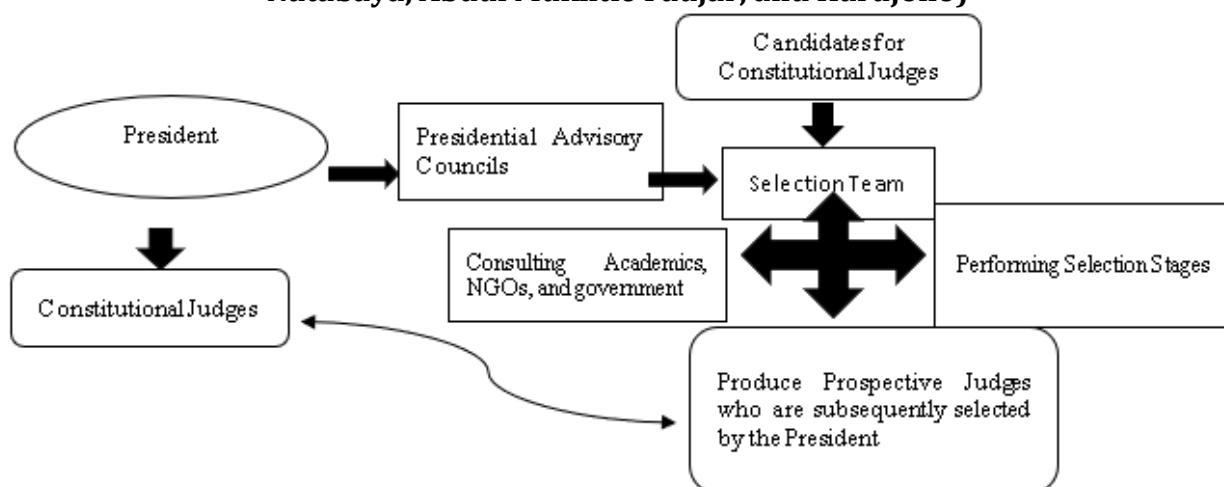
Source: prepared by the author (2023)

The above scheme shows that the DPR's multi-stage recruitment process for constitutional judges has been updated to reflect Indonesian constitutional provisions. The first plan assigns constitutional judge recruitment to House Committee II. In the second DPR scheme, the Consultative Body delegates recruitment to the House Committee (Committee III). Commission III formed a group of outside experts chaired by legal practitioner academics, unlike the third scheme, where the DPR selects.

b) Selection of Constitutional Judges by the President

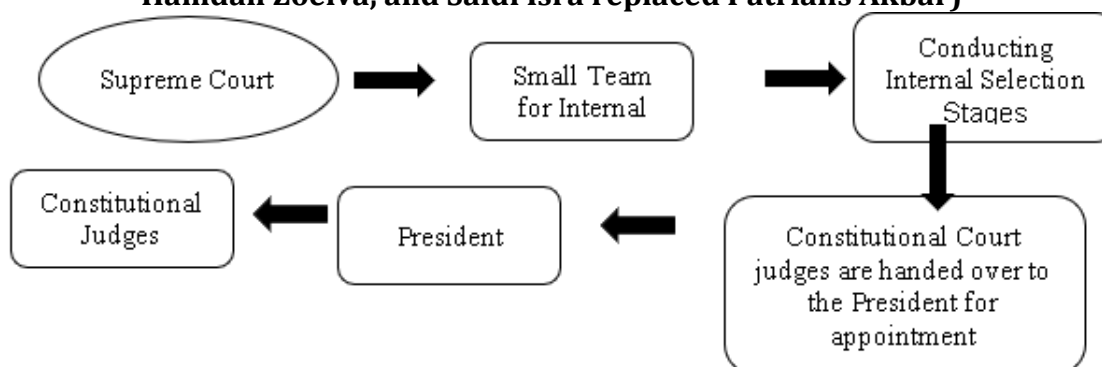


Scheme 1 Constitutional judge selection process (Constitutional Judges H.A.S. Natabaya, Abdul Mukhtie Fadjar, and Hardjono)



Source: prepared by the author (2023)

Scheme 2 selection of Constitutional judges by the President (Constitutional Judges Achmad Sodiki, Maria Farida Indrati, Hamdan Zoelva, I Dewa Gede Palguna replaced Hamdan Zoelva, and Saldi Isra replaced Patrialis Akbar)



Source: prepared by the author (2023)

c) Selection of Constitutional Judges by the Supreme Court Closed Recruitment Scheme

The last process of recruitment and selection of constitutional judges is the recruitment process carried out by the Supreme Court. Since the beginning of the recruitment process for candidates for Constitutional judges proposed by the Supreme Court during the period of Constitutional judges Laica Marzuki, Sudarsono, and Muarar Siahaan until the election of Constitutional judges Suhartoyo and Manahan MP. Sitompul in the last period, the selection process for candidates for Constitutional judges in the Supreme Court has never been carried out openly. The recruitment process is only known by the Internal Supreme Court without an open process to the absence of public participation. This then gives a strong impression that the selection process for constitutional judges in the Supreme Court does not reflect the principles of Transparency, Participative, Objective and Accountable. In fact, these four principles are the main principles mandated by the Constitutional Court Law.

The three diagrams above show how previous Presidents recruited constitutional judges. First, the president selects constitutional judges from a small group of three Ministers: the Minister of Law and Human Rights, the Coordinating Minister for Political and Security Affairs, and the Minister of Justice. In the second diagram, constitutional judge recruitment, the president's proposal changes. President founded Wantimpres.

Selection mechanisms for constitutional judges were split between DPR, MA, and President. Constitutional institutions can nominate flexible constitutional judges who can be interpreted freely and according to each regime's tastes under the Constitutional Court Law. The trifurcation condition affected constitutional judge selection. Proposer DPR, MA, and president choose judges. Selection should be transparent, fair, and accountable. Law 7 of 2020 Article 20, paragraph 1 on the Constitutional Court undermines impartial law interpretation. Uneven constitutional judge appointments weaken legal certainty in a rule of law constitutional democracy. Supporting institutions can obstruct the Constitutional Court. Healthy, efficient legal systems are needed. Strong constitutional structures allow supreme courts to establish innovative, sustainable legal principles as constitutional rights. Judicial independence protects rights. Independence as freedom from political interests in all branches of power¹, including executive and legislative.

D. Dismissal of Constitutional Court Judges

Three state official acts are illegal under administrative law. Overstepping, interfering, and arbitrariness are examples. DPR action is arbitrary and outside its jurisdiction, invalidating it. Independent DPR court intervention². Democratic nations shield the judiciary from party influence. The Indonesian DPR influences the judiciary as a legislature. DPR's Constitutional Court judge dismissal is unjust and illegal. The Constitutional Court should rule that supporting institutions cannot judge or dismiss MK judges illegally. Different interpretations of the decision of the Constitutional Court. part of case 103/PUU-XX/2022 states that confirmation of the decision informs the judge of the ongoing duties. After implementing Law No. 7 of 2020, the Constitutional Court and the organisation of judges' appointments underwent changes in terms of office. This case may reveal governance

¹ Jan Falkowski and Jacek Lewkowicz, 'Are Adjudication Panels Strategically Selected? The Case of Constitutional Court in Poland' (2021) 65 International Review of Law and Economics 105950 <<https://www.sciencedirect.com/science/article/pii/S0144818820301630>>.

² Abdullah Zaini, *Pengantar Hukum Tata Negara* (Pustaka Sinar Harapan 1991).

weaknesses that alter political rule-making. Long-term effects of constitutional change, judicial autonomy, unpredictable elections, duration of tenure. we want to prevent state institutions from consolidating power to perform checks and balances.

The dismissal of constitutional judges is regulated by the Constitutional Court Law. Constitutional judges can be dismissed with honour, not with honour, or temporarily dismissed. constitutional judges can be temporarily dismissed by presidential decree at the proposal of the chairperson of the Constitutional Court. If detained or charged with a crime that has permanent legal force, constitutional judges can be dismissed. Detention is necessary because the suspect may flee or destroy evidence. A prison sentence of five years or more makes the suspect eligible for detention. Constitutional judges who are imprisoned will be dishonourably discharged. Rehabilitated if not found guilty.

The legislature sacked court judges, sparking a debate about democratic sovereignty. Democratic governance relies on separation of powers and autonomy, which these actions may violate. Some countries follow their constitutions and laws while others do not. Institutional reform should include legislative protection for the judiciary against executive overreach. Institutional reform with legal provisions that guarantee independence in judicial support. Distribution of power through limitation of authority in the constitution can avoid conflicting authority. Constitutions are voluntary conventions that everyone can benefit from if others follow them. According to the "revisionist view" of judicial independence, politicians with vested interests prefer truly autonomous organisations and political entities to make decisions. Dismissal by the legislature in violation of the separation of powers casts doubt on the impartiality of the judiciary. Everyone must have the skills and credentials to do their job well. Democratic diversity requires institutionalization. The level of institutionalization affects the goals of political actors in each country.

Without oversight, some groups may abuse power, undermining democracy, pluralism and freedom. Once an appointed judge is removed, judges tend to seek safety and show no sign of partisanship. Personal loyalty reveals patterns of the judicial system and enhances models of behavior. A strong political party will affect the independence of judges. It can also interfere with the powers of the branches of government. The separation of powers in a democracy prevents the concentration of power and human rights abuses by requiring independent branches of government. A double dilemma. First, the procedural rules of the Magna Carta disappear, but the substantive provisions remain. This contradicts constitutional analysis that procedural norms last longer than substantive rules. However, overlap can increase legal uncertainty and judicial intervention in judicial independence laws (Lee & Lo, 2020). Constitutional Court rulings that set new standards or expand legal interpretation. Texts can be clarified or misinterpreted by using linguistic arguments. When language, not law, guides the court's analysis, problems arise. Language debates should not be examined in law because justice is sought.

This requires a balance between the legislative law-making power and the judicial power. The Constitutional Court can carefully weigh its decisions so as not to violate the separation of powers or upset the balance between the judiciary and the legislature. Rapporteur Judges to preside over panels of judges deciding constitutional legitimacy cases to prevent consolidation of political institutions and produce incoherent and detailed regulatory texts. Executive and legislative actions can be directly overturned by

constitutional invalidity. Broad constitutional language gives the party almost unlimited power. Two approaches-judicial restraint and judicial activism-have strongly influenced the role of judicial authority in resolving legal issues. Both approaches have complex implications. Judicial restraint ensures stability and consistency but may not be able to address social change and justice (Vanberg, 2011), Judicial activism promotes human rights but raises concerns about legislative intervention (Soekarno, 2009). These ideas apply to the removal of Constitutional Court judges. Judicial restraint and activism can be used to review the Constitutional Court's decision to dismiss judges. The complicated role of judges is demonstrated by the debate between restraint and activism.

To uphold justice, democracy and the rule of law, the judiciary must strike a balance between power and human rights (Akbar, 2013). Lack of support and interest prevented political parties, civil society groups and citizens from advancing reforms ³. Although well-founded, the reform was poorly formulated and ignored flaws. The modern welfare state is based on individualism, liberalism and incomprehensible domination. The Indonesian Constitution guarantees a prosperous and just society. Politicians do not influence the careers of judges, protecting the independence of the judiciary. community involvement in helping to make decisions is still open ⁴. However, strategies to build organizational capacity, consensus, and knowledge for community decision-making remain unclear ⁵. The system has not protected human rights and fundamental freedoms theoretically and practically as a constitutional justice system ⁶. Effectiveness and efficiency are needed to achieve goals and gain trust from people and organisations. Rechtstaat considers "human rights" a democratic principle and believes constitutional justice protects them under the law. Consider how justice barriers undermine global law and citizenship. State dignity and law require Constitutional Court judges.

Constitutional Court judges are "state officials" because authorised officials nominate and voters elect them. Article 5 of Constitutional Court Law 24 of 2003 makes judges state officials. Constitutional judges are state officials with judicial power in Indonesia. A political product Dr. Mahfud wants the law tested. Legal testing resolves conflicts. Honorary Council disrupts impartiality. The author thinks the Honorary Council is too quick to condemn Akil Mochtar for an evidence-based mistake. Additionally, the Honorary Council violates Article 25 of Constitutional Court Regulation Number 1 of 2013. The Honorary Panel of Judges must resist member and outside pressure. Honorary Tribunal followed constitutional judge ethics despite Akil Mochtar's violation. Impartial, legal, and presume innocence are Honour Board requirements.

³ Michael Amoah, 'Extending Term Limits, Constitutional Referendums and Elections in Francophone Africa' (2023) 7 Social Sciences & Humanities Open 100454 <<https://www.sciencedirect.com/science/article/pii/S2590291123000591>>.

⁴ Achmad Ruslan, *teori dan panduan praktik pembentukan peraturan perundang-undangan di indonesia* (revisi, rangkang education 2021).

⁵ Diana Isabel Clavijo Rojas and Marcelo Montaña, 'Self-Organization/Self-Mobilization of Affected Communities in Impact Assessment and Decision-Making: A Case Study in the Atrato River (Colombia)' (2022) 3 Cleaner Production Letters 100022 <<https://www.sciencedirect.com/science/article/pii/S2666791622000203>>.

⁶ Daniela Cristina Valea, 'The Role of the Romanian Constitutional Court in Protecting and Promoting Human Fundamental Rights and Freedoms' (2012) 46 Procedia - Social and Behavioral Sciences 5548 <<https://www.sciencedirect.com/science/article/pii/S1877042812022094>>.

Choosing Constitutional Court judges goes beyond House, President, and Supreme Court. Constitutional Court ensures autonomy, honesty, and hierarchical oversight to protect the Constitution (Isra, 2012). Legality and justice require constitutional judges' independence. Constitutional judges make decisions independently of peers (Koesno, 2009). Constitutional judges' integrity reflects their virtues as citizens and officials. DPR seemingly minimises Constitutional Court independence and political interference. The DPR unfairly fired Constitutional Judge Aswanto in plenary without explanation. The DPR's Constitutional Court visit is authoritarian and illegal because Article 24 paragraph (1) of the 1945 Constitution guarantees judicial independence. Executive and legislative agendas should not influence the judiciary. DPR arbitrary practices show the 1945 Constitution no longer guides decision-making. Limiting power prevents government abuse and capriciousness (Ilmar, 2022).

This mechanism clearly violates Article 23 of Constitutional Court Law 7 of 2020. Aswanto remains respected regardless of honour. The formal order is flawed because constitutional judges can only be fired for specific reasons before their term ends. Judges can resign voluntarily and apply to the chief justice, have a doctor's certificate of continuous physical or spiritual illness for three months, or be discharged dishonourably under Article 23 paragraph (2) of the Constitutional Court Law. The Constitutional Court Chief Justice can fire the President with a letter of application for good cause.

Constitutional judges need clear early dismissal provisions to maintain autonomy and integrity. Constitutional Court Law's judicial review decision led Saldi Isra to conclude that constitutional judges who have not served their term must be dismissed under Law Number 7 of 2020, especially Article 23. Judges who violate the Constitution can be fired unconstitutionally. Crimes against Article 23 of the Constitutional Court Law violate the 1945 Constitution. Actions that exceed Article 1 paragraph (3) and Article 24 paragraph (1) of the 1945 Constitution harm constitutional judges' autonomy and undermine the judicial power's autonomy, which protects the rule of law. Executive agencies lack impartiality and stability. The instability may cause controversy and executive branch reputation damage. Indonesian President Joko Widodo and Coordinating Minister for Political, Legal, and Security Affairs Mahfud MD value this issue. Both matter. Standing ends there ⁷.

E. Appointment of Constitutional Court Judges

The changing attitudes of executives show instability. A former Constitutional Court judge meeting addressed it. Also present: Mahfud MD. Former Constitutional Court judge Jimly Asshiddiqie disagreed with the House at the meeting. On October 4, 2022, Mahfud MD said the government has opinions. He kept the government's position quiet. The president issued a statement on October 5, 2022, urging everyone to follow the law after the Constitutional Court judges were fired.

Guntur Hamzah replaced Aswanto on the Constitutional Court by presidential order on November 23, 2022. Constitutional Court Regulation No.4 of 2012 supports this dismissal and inauguration. The executive branch was criticised for unconstitutional behaviour. The executive mediates the judiciary-legislature dispute. However, the president's choice has raised concerns about government manipulation of the 2024 general election. The Constitutional Court safeguards it. In democracy, the Constitutional Court is a last resort for

⁷ Maruar Siahaan, *Hukum Acara Mahkamah Konstitusi Republik Indonesia* (Sinar Grafika 2012).

individuals, unlike tyranny and oligarchy. Indonesia's democracy has been autocratised by the legislative and executive branches' lawlessness and unconstitutionality. Not the first Constitutional Court judge change. Former Constitutional Court judges Akil Mochtar and Patrialis Akbar changed. Both men were fired as Constitutional Court judges for corruption. The two judges should have been fired for violating Constitutional Court Regulation No. 4 of 2012. In contrast to Constitutional Judge Aswanto, who follows the law, the Indonesian House appraises him.

CONCLUSION

The dismissal of constitutional judges has been regulated in Law Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court. The House of Representatives and the government do not have the legal authority to dismiss and replace MK judges. Indonesia's political system has transitioned from democracy to autocracy, which is characterized by non-compliance with rules and regulations. Former Constitutional Court judges Akil Mochtar and Patrialis Akbar were replaced. Both were dismissed as Constitutional Court judges for corruption. In contrast, Constitutional Court Judge Aswanto is law-abiding. The DPR, which considers the judge to have canceled many legal products made by the DPR. The unconstitutional actions of the DPR and the president undermined the division of power between the legislature, executive and judiciary and undermined the independence of the Constitutional Court.

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