

Juridical Analysis of The Authority of The Honorary Assembly of The Constitutional Court Against Alleged Violations of The Code of Ethics

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KEYWORDS	ABSTRACT
Code of Ethics for Judges; Constitutional Court; Honorary Assembly; Independence; Integrity	This paper is entitled "Juridical Analysis of the Authority of the Honorary Assembly of the Constitutional Court on Allegations of Violations of the Code of Ethics (In MKMK Decision Number: 5/MKMK/L/11/2023)." The main focus of this paper is to examine the violation of the code of ethics of Constitutional Court judges in the case testing process, as well as to analyze the impact of these decisions on the integrity of the institution. This research was conducted with a normative juridical approach, which relies on secondary data in the form of laws and regulations, legal doctrines, and related court decisions. The results of the study show that there is a violation of fundamental principles such as independence, impartiality, and integrity by the judge in the case under review. These violations have a serious impact on the credibility of the Constitutional Court, raise public doubts about the neutrality of the institution, and set a bad precedent for the Indonesian legal system. In addition, weaknesses in the supervision mechanism and the application of the judge's code of ethics are also factors that worsen the situation. This study recommends strengthening the authority of the Constitutional Court Honorary Assembly, drafting a more specific code of ethics, and implementing stricter and more transparent supervision mechanisms. This effort is expected to increase accountability and maintain the integrity of the Constitutional Court as an institution that safeguards the rule of law.

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INTRODUCTION

The history of the reform movement, which has been resounding to eradicate all forms of abuse, has not been accompanied by firm and concrete steps by the government and law enforcement officials. The interference of power in the judicial process has resulted in the loss of public trust in law enforcement institutions. Initially, it was to exercise the authority of judicial review, while the emergence of judicial review itself can be understood as a development of modern constitutional law and politics (Auliadi Pradana O. F. R. Intansari L. & Arifin S., 2024; Benuf & Azhar M., 2020; Bintang & Roido M., 2023; Zulmi, 2020). From the political aspect, the existence of the Constitutional Court is understood as part of an effort to realize a mechanism of checks and balances between branches of state power based on democratic principles (Constitution, 2010; Maulidi, 2017; Mubin, 2024; Nurhawa, 2023).

It is realized that in order to create a democratic government and the exercise of constitutional people's sovereignty, it is necessary to have a State institution that is in charge and has the authority to carry out judicial control (Aulia Rahmi, 2024). The institution in

question is the Constitutional Court. The Constitutional Court is the highest judicial institution in Indonesia (al-Rishan, 2016; Deta Suandika I. N. & Pidada I. B. A., 2024; Handayani, 2018).

The Constitution Papers stand in line with the changing times and the increasing interests that occur in the country. These interests are based on the need for judicial review. The development of law and modern constitutional politics is an issue of the implementation of the judicial review. From a political point of view, the existence of the Constitutional Court is a form of checks and balances between other branches of power. If Reviewed from a legal point of view, the position of the Constitutional Court is the result of the rule of law. The existence of the Constitutional Court institution in the life of modern countries is considered a new phenomenon in filling the existing constitutional system. For countries that have undergone a change from authoritarian to democratic, the establishment of the Constitutional Court is important because it wants to change or improve the system of constitutional life to be more ideal and perfect, especially in the implementation of constitutional review of laws that are contrary to the constitution as the highest basic law of the state. The Constitutional Court is a judicial institution, as one of the executors of judicial power in addition to the Supreme Court.

The draft amendment to the 1945 Constitution of the Republic of Indonesia by PAH 1 BP MPR gave rise to the idea of establishing the Constitutional Court as a State institution in the branch of judicial power regulated in the 1945 Constitution of the Republic of Indonesia so that it would be more. Strong position and presence. The establishment of the Constitutional Court is intended to strengthen the supervision of democratic development so that it is hoped that the transition period can be passed smoothly and a new democratic national life and the realization of the rule of law will be achieved. The regulation of the Constitutional Court in the 1945 Constitution of the Republic of Indonesia occurred through the Third (2001) and Fourth (2002) Amendments to the 1945 Constitution of the Republic of Indonesia.

This understanding is a form of implementation of the mandate of article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia after the third amendment in 2001, which reads "judicial power is an independent power to administer the judiciary to uphold law and justice" ⁴ This makes the Constitutional Court the highest institution in judicial power. Independent Judicial Power is a basic commitment outlined in the 1945 Constitution of the Republic of Indonesia.

In its development, several provisions in Law Number 24 of 2003 concerning the Constitutional Court as amended several times, most recently by Law Number 4 of 2014 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2013 concerning the Second Amendment to Law Number 24 of 2003 concerning the Constitutional Court into Law have also been tested and declared to be contrary to the Constitution of the Republic Indonesia in 1945 by the Constitutional Court. This Law is the third amendment to Law Number 24 of 2003 concerning the Constitutional Court. The amendment to the Law was motivated by the fact that there were several provisions that were no longer in accordance with the development of the legal needs of the community and the life of the state. Some of the important points in the third amendment of Law Number 24 of 2003 concerning the Constitutional Court, including the election of the Chairman and Deputy Chief Justice of the Constitutional Court become constitutional judges, dismissal of constitutional judges, and retirement age limits for constitutional judges.

Constitutional Court judges also need and are obliged to compile a code of ethics and guidelines for the conduct of constitutional judges that contain norms that must be adhered to by every constitutional judge in carrying out their duties to maintain integrity and irreproachable, fair, and statesmanlike personality. The urgency of the importance of the code of ethics which is a guideline for the implementation of its activities seems to be forgotten. The judge's code of ethics is a concrete form of pouring out of ethical, moral, and religious rules. The judge's code of ethics regulates how a judge behaves. The ethics of a judge are universal and are

a guiding principle of behavior that should be upheld by a judge in carrying out his professional duties in order to create justice for all Indonesian people.

This proves that the code of ethics of judges that has been established and attached to this profession has begun to be forgotten so that cases involving law enforcement officials, judges, have occurred.⁶ In order to enforce the code of ethics and guidelines for the conduct of constitutional judges, an honorary assembly of the constitutional court was established where the main task of the honorary constitutional court was to process and review the reports submitted by the ethics council regarding alleged gross violations committed by the reported judge or the suspected judge who had received verbal reprimands. To know more about the Honorary Assembly of the Constitutional Court, it is a tool formed by the Constitutional Court to monitor, examine, and recommend actions against constitutional judges who are strongly suspected of violating the code of ethics and the code of conduct of constitutional judges.

The problems that occur are in the form of internal and external factors. Internal factors that affect the independence or independence of judges in carrying out their duties and authorities originate from within the judge himself. In this internal factor, human resources are the most decisive, starting from the recruitment of judges to become judges, the education of judges, and the welfare of judges. Meanwhile, external factors that affect the process of administering an independent judiciary start from outside the judges themselves. Constitutional judges must have integrity and personality that is irreproachable, fair, and statesmanlike. the Constitutional Court Decision No. 005/PUU-IV/2006 on August 23, 2006 in a hearing open to the public, constitutional judges do not have external supervisors, and are only supervised by internal supervisors, namely the Honorary Assembly of the Constitutional Court, as stipulated in Article 23 paragraph (3) and paragraph (5) of Law Number 24 of 2003. From the elaboration of the problems that occurred, especially internal problems or factors, through PMK Number 2 of 2013 concerning the ethics council of constitutional judges, the Court initiated the formation of the Council.

In the context of cases of violations of ethics, regulations and procedures, it can be attributed to the incident involving Anwar Usman,⁷ who serves as the Chief Justice of the Constitutional Court. The violation of the code of ethics committed by Anwar Usman has a serious impact on the integrity and trust of the public in the institution

Many cases have occurred regarding judges who have been reported for violating the code of ethics. One of them is the case that recently occurred, namely the case regarding Anwar Usman as the Chief Justice of the Constitutional Court who has been proven to have committed serious violations of the professional code of ethics and judges' behavior. This case began with the reading of a decision regarding the age limit requirements for presidential and vice presidential candidacy by the Constitutional Court, namely in the Constitutional Court Decision Number 90/PUU-XXI/2023 which states that the age of "at least 40 (forty) years" is contrary to the 1945 Constitution of the Republic of Indonesia and does not have binding legal force, as long as it is not interpreted as "at least 40 (forty) years old or has been/is currently occupying office elected through general elections, including the election of regional heads".

As a result, various opinions emerged from the public who were pro and con to the decision. From the case above, it is one example that there are still judges who ignore the meaning of the professional code of ethics. So that they can simply violate the code of ethics without first thinking about the impact that will occur next. For this reason, the author will further analyze the responsibility of a judge who has been proven to have violated the professional code of ethics and the authority of the Honorary Council of the Constitutional Court (MKMK) in handling cases of violations of the code of ethics committed by constitutional judges.

Several studies have examined ethical violations in the Constitutional Court, though

with different focuses. Dukatis Zulmi's thesis analyzes inconsistencies in the handling of cases by the Constitutional Court and its Honorary Assembly, questioning whether Decision No. 01/MKMK/X/2013 aligns with relevant regulations. Eid al-Rishan's journal discusses the redesign of judge appointment and dismissal systems in Indonesia. Another study by Antika Dhea Marshanda Zulqarnain et al. examines the ethical violations in the dismissal of Chief Justice Anwar Usman, particularly regarding the controversial ruling on the 2024 election age limit, which was seen as biased due to familial ties.

Unlike previous research, this study specifically investigates the principles violated by Constitutional Court judges and their impact on the court's integrity. It also explores the authority of the Honorary Council in addressing alleged ethical violations, sharing some similarities with existing discussions while providing a more focused analysis on judicial principles and institutional accountability.

Research Objectives

Every research that is carried out certainly has a purpose behind its writing, as well as this research, has goals to be achieved, especially for the researcher himself and for others. This study aims to achieve specific goals, particularly in understanding the violations of constitutional court judges' principles during the judicial review of the age limit for presidential and vice-presidential candidates in Case No. 90/PPU-XXI/2023. Additionally, it seeks to analyze the impact of the Constitutional Court's decision on the institution's integrity. These objectives align with the previously outlined research problem formulation.

The research offers theoretical, academic, and practical benefits. Theoretically, it enriches legal scholarship, particularly in constitutional law, and bridges the gap between theory and practice. Academically, it contributes to scientific literature and enhances understanding of the Constitutional Court's ethical enforcement mechanisms. Practically, it provides valuable insights for legal practitioners, government officials, and students, encouraging active participation in improving judicial integrity within the democratic system.

RESEARCH METHODS

Types of Research

The type of research conducted by the author is normative juridical. Normative Juridical Research is a method of legal research that is carried out by researching literature materials or mere secondary materials, 10 which is also called literature law research. Normative law research uses normative case studies in the form of legal behavior products, for example, studying laws. The subject of study is the law that is conceptualized as the applicable norm or rule. Secondary legal materials are legal materials that provide explanations of primary legal materials, such as draft laws, research results, works in legal circles, and so on.

Nature of Research

This research is descriptive, descriptive research is a research method that seeks to describe and interpret objects as they are. Therefore, the research that the researcher will carry out is a qualitative research with a descriptive approach that describes the symptoms that appear from the object being studied according to what exists and looks for facts.

Research Approach

This study employs a case approach to examine the application of norms in legal practice, focusing on a Code of Ethics Violations case to analyze the impact of norms in judicial decisions and derive legal explanations. The research uses judges' rulings with permanent legal force, particularly the *ratio decidendi*, as primary legal material for analysis and generalization.

Additionally, a conceptual approach is applied to analyze legal issues through underlying legal concepts, values, and doctrines, helping to assess whether norms align with foundational legal principles. This approach strengthens legal arguments by incorporating established legal definitions, concepts, and principles relevant to the research problem.

Data Type

This study utilizes primary legal materials, which are binding legal sources such as the 1945 Constitution, laws, legal journals, and official documents, as well as secondary legal materials, which include draft legislation, scholarly works, and research findings that serve to interpret and supplement primary sources. Additionally, religious texts such as the Gospel of Jesus Christ may also be referenced for broader contextual understanding.

RESULTS AND DISCUSSION

Honorary Assembly of the Constitutional Court and Principles – Principles of Constitutional Court Judges

Honorary Assembly of the Constitutional Court

The Constitutional Court Honorary Assembly is a device established by the Constitutional Court to monitor, examine and recommend actions against constitutional judges, who are suspected of violating the Code of Ethics and the Code of Conduct for Constitutional Judges. Based on the provisions of Article 2 of PMK No. 1 of 2013, the Honorary Assembly of the Constitutional Court was formed to uphold the honor, dignity, and Code of Ethics and Code of Conduct of Constitutional Judges. The membership of the Honorary Council of the Constitutional Court was first regulated in Article 27A paragraph (2) of Law No. 8 of 2011. Based on the decision of the Constitutional Court Number 49/PUU-XI/2011, the article was declared to be contrary to the 1945 Constitution of the Republic of Indonesia. Then the membership of the Honorary Assembly of the Constitutional Court was rearranged in Article 3 of PMK No. 1 of 2013. The membership arrangement is amended and rearranged in Article 27A paragraph (5) Law No. 4 of 2014, and finally regulated in Article 5 of PMK No. 2 of 2014. In PMK No.2 of 2014 concerning the Honorary Assembly of the Constitutional Court, the membership of the Honorary Assembly of the Constitutional Court consists of 5 people consisting of 1 Constitutional Judge, 1 member of the Judicial Commission, 1 former Constitutional Judge, 1 Professor in the field of law, and 1 community leader.

To become member of the Honorary Assembly of the Constitutional Court in Article 11 of PMK No. 2 of 2014 states that to become a member of the Honorary Assembly of the Constitutional Court must meet the following requirements, namely the following:

- a. honest, fair, and impartial;
- b. Age At least 60 (sixty) years old for members
- c. The Honorary Assembly as referred to in Article 5 letter c, letter d, and letter e;
- d. insightful in the fields of ethics, morals, and the judicial profession; and
- e. have integrity and irreproachable personality.²⁴ The Gospel of Jesus Christ

The Honorary Assembly of the Constitutional Court based on Article 8 of PMK No. 1 of 2013 is tasked with:

- a. collection of information and evidence related to alleged violations committed by the Reported Judge;
- b. summoning the Reported Judge, the complainant, witnesses, and experts to be heard;
- c. examination of the reported judge; and
- d. Delivery Decision Council Honor to Constitutional Court.²⁵

The Authority of the Honorary Assembly of the Constitutional Court and the Authority of the Honorary Assembly of the Constitutional Court to assess the Decision of the Judge of the Constitutional Court

The authority of the Honorary Assembly of the Constitutional Court based on Article 7 of PMK No. 1 of 2013 is to examine and make decisions on reports and/or information that the Reported Judge is suspected of committing serious violations. Although the authority of the Honorary Assembly reaches and includes all efforts in order to maintain and uphold the honor, nobility, dignity and Code of Ethics and Conduct of Constitutional Judges, there is no authority of the Honorary Assembly to conduct legal assessments of the Constitutional Court Decision, moreover it also raises questions about the validity or invalidity of a Constitutional Court Decision.

It should be noted if the Honorary Assembly declares that it has the authority to make an assessment of the Constitutional Court's Decision, then at the same time, the Honorary Assembly is not carrying out all efforts in order to maintain and uphold the honor, dignity, nobility and Code of Ethics and Conduct of Constitutional Judges, but has gone far beyond the limits of its authority by sitting the Honorary Assembly as if it has a certain legal superiority over the Court. The Constitution, the position of the Honorary Assembly with a certain legal superiority over the Constitutional Court will be the same as the Honorary Assembly, harassing the principle of independence inherent in the Constitutional Court as an actor of judicial power as well as violating the final nature and binding of the Constitutional Court's Decision as affirmed by Article 24C paragraph (1) The Constitution of the Republic of Indonesia of 1945 (1945 Constitution), as described in Article 10 paragraph (1) of Law Number 24 of 2003 concerning the Constitutional Court as last amended by Law Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court".

In the formulation of the norms of Article 24C paragraph (1) of the 1945 Constitution, there is no phrase that states "*clearly welo-welo*" (expressis verbis) that the Constitutional Court's Decision is final and binding. The final nature can be found in the formulation of Article 24C paragraph (1) of the 1945 Constitution, namely that "The Constitutional Court has the authority to adjudicate at the first and last level whose decision is final to test the law against the Constitution". Meanwhile, the word "binding" does not appear 1945 Constitution, but in the Explanation of Article 10 of Law Number 8 of 2011 concerning the Amendment of Law Number 24 of 2003 concerning the Constitutional Court (Law 8/2011), which states: "The final nature of the decision of the Constitutional Court this Law also includes the force of law (final and binding)". Although, the provisions of the Explanatory Article 10 of Law 8/2011 have been declared to be contrary to the 1945 Constitution and do not have binding force through the Constitutional Court Decision Number 49/PUU-IX/2011 which was pronounced in a plenary session open to the public on October 18, 2011. Based on the Constitutional Court Decision Number 105/PUU-XIV/2016 which has been pronounced in a plenary session open to the public on September 28, 2017, "the decision to test the Law is binding and must be obeyed by everyone, including state administrators". The Honorary Assembly will not enter to assess the judicial technical aspects of the Constitutional Court in *casu* Constitutional Judges which is a manifestation of the implementation of the principle of independence of constitutional judges as the 9 (nine) pillars of the constitution and the independence of judicial power as an institution (independence of the judiciary).

Establishment of the Honorary Council on the Provisions of Article 17 of Law Number 48 of 2009 concerning Judicial Power (hereinafter referred to as Law 48/2009)

Regarding the authority of the Honorary Assembly to assess the Constitutional Court Decision as the Complainant's report postulates the issue which basically states that the Constitutional Court Decision Number 90/PUU-XXI/2023 must be declared invalid, canceled,

or at least reviewed, on the grounds that the decision was handed down by a judge who should have resigned because he had a conflict of interest with the case he was handling as regulated in Article 17 paragraph (5) and paragraph (6) of Law 48/2009. In the event of such a decision, the case must be re-examined with a different composition of judges as stipulated in Article 17 paragraph (7) of Law 48/2009.²⁷ Without intending to assess the constitutionality of the norms of the Law in casu Law Number 48 of 2009 concerning Judicial Power (Law 48/2009), in examining and deciding reports of alleged violations of the Code of Ethics and Conduct of Constitutional Judges, that the full provisions of Article 17 of Law 48/2009 consist of 7 (seven) paragraphs, namely:²⁸

- 1) The party who is being tried has the right to disobey the judge who tried the case;
- 2) The right to refuse as referred to in paragraph (1) is the right of a person who is being tried to file an objection accompanied by reasons against a person who is trying his case;
- 3) A judge is obliged to resign from the trial if he is bound by a blood or blood family relationship up to the third degree, or a husband or wife relationship even though he has been divorced, with the chairman, one of the member judges, prosecutors, advocates, or clerks;
- 4) The chairman of the assembly, member judge, prosecutor, or clerk shall resign from the trial if there is a blood or congenital family relationship up to the third degree, or a husband or wife relationship even though divorced, with the party being tried;
- 5) A judge or clerk is obliged to resign from the trial if he has a direct or indirect interest in the case under investigation, either of his own volition or at the request of the parties to the case;
- 6) In the event of a violation of the provisions as intended in paragraph (5), the decision shall be declared invalid and the judge or clerk concerned shall be subject to administrative sanctions or penalties in accordance with the provisions of laws and regulations;
- 7) The case as referred to in paragraph (5) and paragraph (6) is re-examined by a different panel of judges.

According to the Honorary Assembly, the provisions of Article 17 paragraph (1), paragraph (2), paragraph (3), paragraph (4), and paragraph (5) of Law 48/2009 must in principle be interpreted as applicable to Constitutional Judges in examining, adjudicating, and deciding constitutional cases that the authority of the Constitutional Court. It is true that in the case of the constitution in casu the case of the test of the law, the object of the test is the norm of the law, not the concrete case. However, it is customary for Constitutional Judges as statesmen to have a sense of ethics, ethical feelings that arise from the conscience and conscience of each Constitutional Judge, to take the initiative to take the attitude of resigning from the examination and decision-making of a case when he as a Constitutional Judge will not be able to be objective and fair because the case is related to or at least has his own direct personal interests and/or their family members, including to prevent the general assumption of the judge's partiality that should have been foreseen.

Such an attitude should be taken without always having to be preceded by requests from other parties outside of him, including the parties to the case, or the public in general. Nor should the Constitutional Judge use or state reasons that basically argue that the Constitutional Court adjudicates abstract norms and/or under the pretext that the parties to the case are not members of their families as referred to in Article 17 of Law 48/2009. In other words, as long as the case clearly implies the potential self-interest of the Constitutional Judge and/or the interests of his family members, the Constitutional Judge should resign from the process of examining and deciding a In practice so far, there have been several decisions of the Constitutional Court that can be considered to violate the principle of *nemo iudex in causa sua*. In this regard, the Honorary Assembly considered that without intending to assess the decisions in question, the possibility of the practice of conflict of interest in these decisions cannot be

used as justification for the practice of conflict of interest". This has been explicitly regulated and affirmed in the Regulation of the Constitutional Court of the Republic of Indonesia Number 09/PMK/2006 concerning the Implementation of the Declaration of the Code of Ethics and Conduct of Constitutional Judges (Sapta Karsa Utama) which should be known and understood by Constitutional Judges.

With regard to the request to the Honorary Assembly to assess the validity or invalidity of the Constitutional Court Decision when the Constitutional Judge or his family members have a direct interest in the decision has not resigned from the examination and decision-making process, if it is associated with Article 17 paragraph (6) and paragraph (7) of Law 48/2009, then in examining and deciding the report of alleged violations of the code of ethics and the conduct of constitutional judges a quo, The Honorary Council is of the opinion that in line with the position of the Honorary Council which has stated that it is not authorized to assess the decision of the Constitutional Court, Article 17 paragraph (6) and paragraph (7) of Law 48/2009 should be set aside because it cannot be enforced in the context of the case and the decision of the Constitutional Court.

the provisions of Article 17 paragraph (6) of Law 48/2009 which affirms, "In the event of a violation of the provisions as referred to in paragraph (5), the decision is declared invalid", does not necessarily cause the decision of the Constitutional Court which is final and binding in itself to be invalid, but must be declared invalid by the official or institution authorized for it in accordance with the principle *presumptio iustae causae*, in this case through testing by the Constitutional Court as referred to in Article 17 paragraph (7) of Law 48/2009. Although the provisions of Article 17 paragraphs (1) to (7) of Law 48/2009 also apply to Constitutional Judges, but for matters that have been specifically regulated by the Law on the Constitutional Court and the 1945 Constitution, the provisions of Article 17 can be waived from applying to the Constitutional Court.

2. Principles of Judges of the Constitutional Court

As a Judge of the Constitutional Court, it is necessary to have the provisions of the Code of Ethics and Code of Conduct for Constitutional Judges and always adhere to the principles that have been regulated in PMK 09/2006. There are several Principles, namely:

1) The Principle of Partiality

- a. Application of number 1: "Constitutional judges must carry out the duties of the Court without prejudice, deviation, and not biased towards either party."
- b. Implementation of number 2: "Constitutional judges must display behavior, both inside and outside the court, to maintain and increase the trust of the public, the legal profession, and the parties to the litigation against the partiality of constitutional judges and the Court."
- c. Application of number 4: "Constitutional judges are prohibited from giving open comments on cases that will be, are being examined, or have already been decided, either by the judge concerned or by other constitutional judges, except in certain cases and intended only to clarify the verdict."

2) Integrity Principle

- a. Application of number 1: "Constitutional judges guarantee that his conduct is not reprehensible from the point of view of proper observation."
- b. Implementation of number 2: "The actions and behavior of constitutional judges must strengthen public trust in the image and authority of the Court. Justice is not only carried out but must also appear to be carried out."

3) Principles of Speed and Courtesy

- a. Application of number 1: "Constitutional judges must avoid inappropriate behavior and image in all activities."
- b. Application of number 2: "As a servant of the law who is constantly the center of public

attention, constitutional judges must accept personal limitations that may be considered burdensome and must accept them willingly and behave in accordance with the dignity of the Court"

4) Principles of Proficiency and Equality

- a. Application of number 1: "Constitutional judges prioritize the duties of the Court above all other activities."
- b. Application of number 2: "Constitutional judges must dedicate themselves to the performance of their duties, both in the context of the performance of the functions and responsibilities of the Court and other duties related to it."

5) Principles of Wisdom and Wisdom

- a. Implementation of number 5: "Constitutional judges must be authoritative and dignified."
- b. The Judges' Consultative Meeting (RPH), which was held on September 19, 2023 for Cases Numbers 29, 51, and 55, was not attended by the Chief Justice of the Constitutional Court. The absence of the chairman of the Constitutional Court is due to the potential for a conflict of interest due to the legal issue that was decided to be closely related to the minimum age requirement to become a Presidential Candidate and Vice Presidential Candidate where the Chairman's relatives have the potential to be proposed in the 2024 Presidential Election contest as a Presidential and Vice Presidential Candidate Pair by one of the political parties, so that the Chairman chose not to participate in discussing and deciding the three cases a quo.

6) The Principle of Independence

- a. Application of number 1: "Constitutional judges shall exercise their judicial functions independently on the basis of an assessment of the facts, rejecting outside influences in the form of persuasion, entreaty, pressure, threats or interference, whether directly or indirectly, from anyone or for any reason, in accordance with his careful control of the law."
- b. Implementation of number 3: "Constitutional judges shall maintain independence from the influence of executive, legislative, and other state institutions."
- c. Application of number 4: "In carrying out judicial duties, constitutional judges must be independent of the influence of their peers in decision-making"

The Author argues in Decision Number: 5/MKMK/L/11/2023 that there are several Principles that were violated by the Constitutional Court Judge, including the Principles that were violated, namely:

1) The Principle of Independence

The author argues that the 5 (five) Reported Constitutional Judges have violated the principle of independence. The author's analysis is as follows:

- a) The Reported Constitutional Judges are allegedly not independent from public pressure through statements of support for Gibran Rakabuming Raka to run as a candidate for Vice President. This support is manifested in the form of the birth of volunteer groups that support the Mayor of Surakarta Gibran Rakabuming Raka, whose name is mentioned specifically several times in the application for case number 90/PUU-XXI/2023;
- b) The Reported Constitutional Judges are allegedly not independent from the influence of their peers in decision-making because His Excellency Constitutional Judge Anwar Usman, who is the uncle/family of the Mayor of Surakarta Gibran Rakabuming Raka, was also present at the Judges' Consultative Meeting (RPH) to discuss and make decisions on case number 90/PUU-XXI/2023.

2) The Principle of Partiality

The author argues that 5 (five) Constitutional Judges have violated the principle of

partisanship. The author's analysis is as follows:

- a) In the Judges' Consultative Meeting on the application for the previous cases, namely application number 29/PUUXXI/2023 which basically requested that the age limit to become a Presidential Candidate and/or Vice Presidential Candidate from the original 40 (forty) years old be lowered to 35 (thirty-five) years, application number 51/PUU-XXI/2023 which basically asks the Court for an alternative to the minimum requirement of 40 (forty) years to becoming a Presidential Candidate and/or Vice Presidential Candidate, namely experience as a Regional Head/Deputy Regional Head, and application number 55/PUU-XXI/2023 which basically asks the Court for an alternative to the minimum requirement of 40 (forty) years to become a Presidential Candidate and/or Vice Presidential Candidate, namely experience as a state administrator, was rejected by the majority of Constitutional Judges. A total of 6 (six) Constitutional Judges out of 8 (eight) Constitutional Judges voted against the requests. Keep in mind that in the RPH in the application for case number 29/PUU-XXI/2023, case number 51/PUUXXI/2023, and case number 55/PUU-XXI/2023 were carried out without the presence of His Excellency Constitutional Judge Anwar Usman. However, at the Judges' Consultative Meeting on the application for case number 90/PUU-XXI/2023 and case number 91/PUUXXI/2023, His Excellency Constitutional Judge Anwar Usman was present and even participated in discussing and deciding the case. The presence of His Excellency Constitutional Judge Anwar Usman clearly affected the stance of 2 (two) Constitutional Judges out of 6 (six) Constitutional Judges from the beginning firmly refused to change to accept part;
- b) His Excellency Constitutional Judge Anwar Usman did not resign from the Judges' Consultative Meeting and even participated in discussing and deciding case number 90/PUU-XXI/2023, even though His Excellency Constitutional Judge Anwar Usman is the uncle/family of the Mayor of Surakarta Gibran Rakabuming Raka whose name is mentioned specifically several times in the application for a quo case. The decision of case number 90/PUU-XXI/2023 was ultimately used by Gibran Rakabuming Raka to run as a candidate for Vice President even though he was not yet 40 (forty) years old. The fact that the use of Case Decision number 90/PUU-XXI/2023 by Gibran Rakabuming Raka is perfect evidence of the existence of a conflict of interest in the Judges' Consultative Meeting which discussed and decided the application for a quo case.

3) Integrity Principle

The author argues that 5 (five) Constitutional Judges have violated the principle of integrity. The author's analysis is as follows: the act of violating the constitution by doing something that exceeds its authority given by the 1945 Constitution and the violation of Law Number 24 of 2003 concerning the Constitutional Court and Law Number 48 of 2009 concerning Judicial Power committed by 5 (five) Reported Constitutional Judges is a reprehensible act that is very shameful, so that the act should be seen as a serious violation; In addition, 5 (five) Reported Constitutional Judges who have clearly violated their oath or promise of office as Constitutional Judges should be dismissed from their positions as Constitutional Judges in order to maintain the dignity, dignity, and nobility of the Constitutional Court as a constitutional guardian institution.

The Impact of the Constitutional Court Judge's Decision on the Integrity of the Constitutional Court Judge

1. Decision of the Constitutional Court Judge

The decision of the Constitutional Court Judge is categorized into the type of declaratoir constitutive decision. Declaratoir means a verdict where the judge simply states what is the law, does not punish. This can be seen in the decision to test the law which states that the content, paragraphs, articles and/or parts of the law do not have binding legal force. Constitutive means a decision that states the absence of a legal state and/or creates a new legal state. In contrast to the nature of a condemnatoir decision, it is a verdict that can be enforced, namely a verdict that

contains a punishment, where the losing party is punished for doing something. Therefore, after the Constitutional Court's decision that a law is not binding because it contradicts the Constitution, the decision itself also creates a new legal situation.

However, as a condition for the public to know, as Article 57 paragraph

(3) Law No. 24 of 2003 states: The decision of the Constitutional Court granting the application must be published in the State Gazette within a period of no later than 30 (thirty) working days from the date the decision is pronounced. The nature of the Constitutional Court's decision was first regulated in the 1945 Constitution after the third amendment, precisely Article 24C paragraph (1) which states "The Constitutional Court has the authority to adjudicate at the first and last level whose decision is final." The discussion of the meaning of the nature of the Constitutional Court's decision in the process of amending the 1945 Constitution is not discussed in detail, in fact, it can be said that it is very rarely discussed, let alone debated. Valina Singka Subekti stated, regarding the authority of the Constitutional Court in the process of formulating the Constitutional Court in Indonesia, that the settlement of cases within the Constitutional Court must be carried out in a short time, and not entirely cases in the Constitutional Court can be reached by the general judicial environment. On this basis, the Constitutional Court's decision must be placed as a decision of the first and last instance. This even according to Pattaniari Siahaan has a correlation with the number of constitutional judges.

The formulation of 9 constitutional judges is intended so that the trial can be short and fast but representative, considering that the Constitutional Court session is the first and last. There is no detailed debate about the nature of the Constitutional Court's decision in the process of formulating the third amendment to the 1945 Constitution. It can be said that all parties involved, from the beginning to the end of the discussion, have agreed on these provisions. Therefore, the final formulation agreed upon is that the Constitutional Court's decision is a final decision of the first and last instance. The mandate of the 1945 Constitution was then derived into Law Number 24 of 2003 concerning the Constitutional Court. Article 10 paragraph (1) states that "The Constitutional Court has the authority to adjudicate at the first and last level whose decision is final." It is explained that the final meaning of this law is that the decision of the Constitutional Court immediately acquires permanent legal force from the moment it is pronounced and there is no legal remedy that can be taken. Further provisions to clarify the legal force of the Constitutional Court's decision can be seen in Article 47 which states "The Constitutional Court's decision acquires permanent legal force after it has been pronounced in a plenary session open to the public".

Provisions regarding the nature of the Constitutional Court's decision as a form of derivation from the 1945 Constitution can also be found in Article 29 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power (Law Number 48 of 2009), which states that "The Constitutional Court has the authority to adjudicate at the first and last level whose decision is final." Referring to the juridical basis above, no binding word was found as the nature of the Constitutional Court's decision which should be combined with the final nature. Both according to the 1945 Constitution, Law Number 24 of 2003, and Law Number 48 of 2009, only affirm that the Constitutional Court's decision is final. According to Syahrizal, this was a fatal mistake made by the People's Consultative Assembly in formulating amendments to the 1945 Constitution.

Syahrizal argued that the articulation of the final decision was not appealable, thus giving rise to the consequence that the decision must be normatively binding. In simple terms, a final decision must also be followed by a binding word. The normative articulation of final and binding decisions, even though they have been expressly included in the constitution and other juridical foundations that govern the Constitutional Court, often also encounter obstacles in the form of not being followed up by the address of the decision, especially if it is not included.³¹

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A different view was conveyed by Maruarar Siahaan, who stated that the opinion of not including a binding clause combined with a final clause so as to reduce its binding force is an inappropriate opinion. This view is based on Article 47 of Law Number 24 of 2003, that the final first and last level decisions have permanent legal force since they are pronounced in an open session that is *erga omnes*, namely a decision whose legal consequences are binding on all parties. Fajar Laksono Soeroso argued that the meaning of binding has been implied in a final decision. Moreover, in the laws and regulations, it has been emphasized that the Constitutional Court's decision is the first and last level, which means that no further legal remedies can be taken. Thus, the decision directly has permanent legal force and obtains binding legal force to be implemented.

2. Integrity of Constitutional Court Judges

Integrity is a moral excellence that must be an identity and be a capital that is urgently needed in a general service.³² Integrity is acting consistently in accordance with organizational values and policies as well as professional code of ethics, even in difficult circumstances to do so, the "only word with deeds" functions as a *Cognitive Function of Integrity* which includes moral intelligence and *self-insight*.³³ While *self insight* itself includes *self knowledge* and *self reflection*. This means that integrity functions to maintain a person's morals or morals which then encourages him to have extensive knowledge.³⁴ We can conclude that the integrity of an individual is a moral, identity, has virtue values and is able to prioritize his function rather than selfishness, in other words he does it even in difficult circumstances, without exception a Judge of the Constitutional Court which is the last milestone of the verdict is pronounced because in the legal adage *it is explained "The judge is God's representative in the world"* which means that the position of a Judge is very respectable because he has the right and authority to decide all cases.

3. Analysis of the Impact of the Decision of the Constitutional Court Judge on the Integrity of the Constitutional Court Judge

Everyone who performs a function determined by the law can be called an organ. In addition to organs that are organized, more broadly, any position determined by law can be called an organ as long as its function is to create norms (normcreating) and/or to carry out norms (norm applying). Judges are organs because they are chosen and appointed to carry out their function, which is to create norms through their decisions. According to Kelsen, the important characteristics of the State organ in a narrow sense are:

1. State organs are elected or appointed to occupy a certain position or function;
2. The function is carried out as the main profession or even legally exclusive;
3. and because of his function, he is entitled to a salary from the State.

Public officials who are elected but not directly by the people, are classified as officials who must be distinguished from the civil service law. Furthermore, the mention of State institutions and State officials does contain the consequences of certain rights and obligations that burden the State with budgets, facilities, and so on is a matter of regulation and does not need to hinder the understanding that they are State officials. One of the factors that influence in creating a better judiciary is that there are judges who have integrity and professionalism. Judges with integrity and professionalism are only obtained through recruitment and selection and training. Recruitment and selection in order to get good judges must prioritize the principles of openness, participation, accountability, right man in the right place and objective.

Although the recruitment and selection system has succeeded in getting judges who have integrity and professionalism, these two elements still need to be developed. The success of the development of these two qualities is expected to contribute to creating a better judiciary.¹² Constitutional Court judges are State officials tasked with carrying out the functions of judicial power in the Indonesian constitutional system. The status of "State officials" owned by Constitutional Court Judges is because Constitutional Court judges are proposed and appointed officials who are directly elected by the people. In addition, Article 5 of Law Number 24 of

2003 concerning the Constitutional Court expressly states that: "Constitutional Judges are State officials". Thus, it is explicitly clear that constitutional judges are State officials who are tasked with exercising judicial power in the Indonesian constitutional system.

Judges at all levels occupy a central position in the judicial process. In that central position, it is expected to uphold law and justice. Only a good judge can be expected to produce a verdict that reflects a sense of justice, which is in accordance with the applicable law. There are many views on the criteria for good judges, including having legal skills, having adequate experience, having integrity, having good health, reflecting community representation, having good reason, having a broad vision, and possessing.³⁵ The Gospel of Jesus Christ

According to the author, in settling a case, constitutional judges should adhere to the principles that have been outlined in the Constitutional Court Regulation Number 09/PMK/2006 concerning the Enforcement of the Declaration of the Code of Ethics and Conduct of Constitutional Judges which is also known as *Sapta Karsa*, the code of ethics and behavior of judges regarding impartiality and the principle of propriety/decency. This is also incompatible with the nature of independence and impartiality in constitutional judges. Actually, the Constitutional Court's decision was decided by a non-unanimous vote, because when making the decision, there were dissenting opinions and concurring opinions on constitutional judges. Of the total nine constitutional judges who heard the Constitutional Court's decision no. 90, four judges disagreed with the decision. Meanwhile, three other judges agreed with the verdict. Two other constitutional judges delivered concurring opinions for the same decision. At that time, the opinion of the majority judge should have been followed, but the result of decision no. 90 actually made changes regarding unnatural substance. A significant change of a constitutional judge can be considered as an inconsistency that indicates interference that interferes with the integrity and independence of the guardian of the constitution.

From the author's analysis, this decision affects the enforceability of the MKMK (Constitutional Court Honorary Council) decision related to alleged ethical violations by constitutional judges. In MKMK Decision Number 02/MKMK/L/11/2023, Judge Anwar Usman was proven to have violated the principles of impartiality, the application of number 5 letter b, and the Principle of Integrity, because he did not disappoint himself from the examination and decision-making process of Decision Number 90/PUU-XXI/2023. So that it led to his dismissal from his position as Chairman of the Constitutional Court. This creates a legal crisis and can have an impact on the legitimacy of Decision No. 90/PUU-XXI/2023.

The impact of the Constitutional Court's decision Number 90/PUU-XXI/2023 also includes pros and cons among the public and raises questions related to the applicability of the Constitutional Court's decision if the judge who adjudicates the case actually violates the code of ethics, which of course the public becomes unsure of the principle of legal certainty that should exist in the decision.³⁶ The Gospel of Jesus Christ

There are several legal implications or consequences for alleged violations of the code of ethics of Constitutional Court Judges, including:

- 1) Decline in public trust in the Constitutional Court

Violations of the code of ethics by Constitutional Court judges, especially in cases such as those raised in this study, directly impact the decline in public trust in the institution. The Constitutional Court, which was supposed to be the highest judicial institution with unshakable independence and integrity, is now facing a crisis of legitimacy. The public began to doubt the ability of the Constitutional Court to provide justice objectively and neutrally. As a result, the function of the Constitutional Court as a guardian of the rule of law and democracy has been hampered.

- 2) Vulnerability to conflicts of interest and external interference The inability of judges to maintain independence in decision-making creates loopholes for certain parties to influence the judicial process. Cases of code of ethics violations involving conflicts of interest indicate systemic vulnerability to outside intervention, both from individuals and

political groups. This can threaten the principle of checks and balances in the Indonesian constitutional system and potentially cause bias in the resulting decisions.

3) Impact on the legal system and democracy

When the integrity of the Constitutional Court is compromised, the implications extend to the legal system and democracy in Indonesia. Decisions influenced by code of conduct violations can set a bad precedent, undermine the rule of law, and make room for greater violations in the future. In addition, this situation can also reduce international trust in the legal system in Indonesia, which has an impact on diplomatic relations and foreign investment (Sorik Nasution M. & Nazaruddin N., 2023; Suzeeta & Lewoleba K. K., 2024; Tobu Mabilani G. M. & Rabawati D. W., 2024; Zahra, 2020).

4) Urgent need for reform of the supervisory system

The problems that occurred show the need for reform in the system of supervision of judges of the Constitutional Court. The absence of an effective external oversight mechanism and the limited authority of the Honorary Assembly of the Constitutional Court in handling serious violations are obstacles in maintaining the integrity of the institution (Nasution, 2024; Qolyubby & Hadi S., 2024; Sabina, 2023; Sukarna, 2018; Suzeeta & Lewoleba K. K., 2021; Syahputra & Subaidi Z., 2018). Without deep reforms, similar violations risk continuing to occur, exacerbating the damage to public trust and institutional legitimacy.

Conclusion

The Constitutional Court's Decision No. 90/PUU-XXI/2023 revealed serious violations of judicial principles, including independence, impartiality, and integrity, as judges succumbed to external pressures, conflicts of interest, and overstepped their authority—damaging public trust and institutional credibility. This case highlights the urgent need for structural reforms, stricter ethical oversight, and stronger accountability mechanisms to restore the Court's legitimacy. For future research, it is recommended to conduct comparative studies on ethical enforcement mechanisms in other constitutional courts, analyze the effectiveness of proposed reforms, and explore preventive measures to minimize conflicts of interest in judicial decision-making. Additionally, public perception studies could assess how transparency initiatives impact trust in the Constitutional Court.

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