

THE URGENCY OF THE PROHIBITION OF POLITICAL PARTY CADRE MEMBERS FROM PARTICIPATING IN THE RECRUITMENT OF CONSTITUTIONAL JUDGES

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Abstract

The position of constitutional judge is one of the positions whose conditions are regulated in the 1945 Constitution. The public has questioned the election of Arsul Sani as a PPP cadre Judge from the DPR RI element because he has not resigned as a PPP cadre and member of the DPR after being approved as a Constitutional Court Judge in the DPR RI plenary session. This research aims to assess justification for phenomena that occur through legal construction. What is the urgency of limiting political party cadres for electing constitutional judges, and what is the concept of limiting political party cadres to become Constitutional Judges? This research uses normative research methods with conceptual, statutory and case approaches. The results of the research are that first, the urgency for political party cadres to be prohibited from participating in the selection of prospective Constitutional Court judges, the decisions will benefit their cronies. The second concept of limiting political party cadres to become constitutional judges does not yet have regulations. However, the prohibition on holding concurrent positions for Constitutional Judges is regulated in Article 17 of Law No. 23 of 2003 concerning the Constitutional Court. According to legal procedures and ethics, candidates for Constitutional Justice who will be nominated are not permitted to hold concurrent positions. The correct implementation of the selection and appointment of constitutional judges is that the proposed candidate should resign first from their position.

Keywords: Political Party Cadres; Constitutional Judges; Recruitment.

INTRODUCTION

The formation of the Constitutional Court is a correction to the experience of constitutional life in the past, caused by multiple interpretations of the Constitution. The Constitutional Court is tasked with handling certain cases in the constitutional field to safeguard the Constitution so that it is implemented responsibly by the will of the people and the ideals of democracy. The Constitutional Court is a judicial institution where the judicial authority is

tasked with adjudicating certain cases within its authority based on the Constitutional Court. Article 24 Paragraph (2) of the 1945 Constitution states that "judicial power is exercised by a Supreme Court and judicial bodies subordinate to it in the general court environment, the religious court environment, the military court environment, the state administrative court environment, and by a Constitutional Court ." Based on these provisions, the Constitutional Court is one of the actors of judicial power apart from



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* Received: 22 December 2023, Received in revised form: 17 January 2024, Accepted: 22 February 2024

Doi: 10.3376/jch.v9i1.807

the Supreme Court. Judicial power is independent power to administer justice to uphold law and justice. Thus, the Constitutional Court is a judicial institution, as a branch of judicial power that adjudicates certain cases within its authority based on the provisions of the 1945 Constitution. (Khairulloh, 2023)

Constitutional judges in Indonesia are nominated by 3 (three) people, each by the Supreme Court, DPR and President, as stated in Article 24C of the 1945 Constitution in conjunction with Article 18 Paragraph (1) of the Constitutional Court Law. The nomination of constitutional judges by the proposing institution must be carried out transparent and participatory. In contrast, the selection of constitutional judges must fulfill objective and accountable principles to produce qualified constitutional judges.

The main element that influences the Constitutional Court's ability to carry out its duties is determined by the quality of constitutional judges (Safaat, 2023). Constitutional judges must have integrity, a good personality, fairness and a statesman who understands the Constitution. These requirements are the public's great hope and trust in the Constitutional Court to uphold law and justice, which must be maintained by constitutional judges as the main actors in administering justice at the Constitutional Court. Judges with broad insight and experience in the field of constitution have produced various breakthroughs to realize substantive constitutional justice. Hence, the Constitutional Court becomes a judicial institution that is relied upon by the public to obtain their constitutional rights.

The selection process is carried out with provisions made by each proposing institution, excluding a selection process that is transparent, participatory, objective and accountable. Until now, the selection of constitutional judges by the Supreme Court still tends to be carried out in a closed and internal manner, such as the submission of Suhartoyo and Manahan MP Sitompul in 2014. In the selection process, the Supreme Court ignored the principle of public participation, so not many people knew about the selection process for prospective judges that was being held. By the Supreme Court the Supreme Court received criticism from the Judicial Commission (KY), which stated that the selection process did not meet the requirements for recruiting constitutional judges (Tan, 2021).

Selection in the DPR is simply the preparation and presentation of papers from prospective constitutional judges, including during the selection of Akil Mochtar through Commission III of the DPR RI in law and human rights. At that time, the selection process was carried out behind closed doors and the public was not informed about the selection of constitutional judges. Apart from the Supreme Court and DPR, the selection by the President is no less controversial because the election is carried out by direct appointment, including the appointment of Patrialis Akbar and Maria Farida by President Susilo Bambang Yudhoyono (SBY), not through an election mechanism that represents objectivity. As a result, the President's implementation of the selection of constitutional judges reduces public confidence in the implementation of the selection of constitutional judges because

the principles of transparency and objectivity in the selection are not fulfilled.

Recruitment requirements and mechanisms are very important in exploring the independence of judges through the recruitment system for prospective constitutional judges. The constitution has given the mandate to the DPR to nominate 3 (three) constitutional judges so that the DPR has the authority to select prospective constitutional judges, which is further regulated by Article 18 Paragraph (1) Law on the Constitutional Court and Article 71 letter n Law Number 17 of 2014. The DPR stipulates this authority in a Regulation of the House of Representatives of the Republic of Indonesia Number 1/DPR RI/2009 concerning Rules of Procedure, dated September 29, 2009, especially in Article 6 letter q, which reads, "The DPR has the following duties and authorities: q. elect 3 (three) constitutional judges and submit them to the President to be inaugurated by Presidential Decree."(Wijayanti et al., 2016)

An example of a party cadre who became a Constitutional Court judge is that during the SBY period, he openly appointed Patrialis Akbar directly to replace Achmad Sodiki and extended Maria Farida at the suggestion of the Ministry of Law and Human Rights. At that time, Patrialis Akbar was a National Mandate Party (PAN) cadre. The public questioned Patrialis Akbar's credibility because, judging from his track record, Patrialis Akbar had poor performance. His failure to succeed can be seen from several policies or steps taken by Patrialis Akbar while serving as Minister of Law and Human Rights, which were

controversial and not in line with the spirit of eradicating corruption, such as remission of drugs and conditional release for corruptors (Indramayu et al., 2017). Patrialis Akbar was ultimately involved in corruption at the Constitutional Court.

Then, the political party cadre who became the Constitutional Court judge was Akil Mochtar. Still, when he was chairman of the Constitutional Court, Akil Mochtar committed a criminal act of corruption. The Panel of Judges for Corruption Crimes stated that Akil was proven to have received bribes as per the first indictment, namely related to the handling of disputes over the regional elections in Gunung Mas Regency (Rp. 3 billion), Central Kalimantan (Rp. 3 billion), Lebak Regional Elections in Banten (Rp. 1 billion), Empat Lawang Regional Elections. (Rp. 10 billion and 500,000 US dollars) and the Palembang City Pilkada (around Rp. 3 billion). The judge also stated that Akil was proven to have received bribes as per the second indictment, namely related to the dispute over the Buton Regency Pilkada (Rp. 1 billion), Morotai Island Regency (Rp. 2,989 billion), Central Tapanuli Regency (Rp. 1.8 billion) and received a promise of giving related to objections to the results of the East Java Province Regional Election (Rp. 10 billion). Akil was also proven in the third indictment, namely receiving Rp. One hundred twenty-five million from the Deputy Governor of Papua for the 2006-2011 period, Alex Hese gem. The money was given to regional election disputes in Merauke Regency, Asmat Regency, Boven Digoel Regency, Jayapura City and Nduga Regency. (Kompas.com, 2023)

Coordinating Minister for Political, Legal and Security Affairs of Indonesia (Menko Polhukam) Mahfud MD said Deputy Chairman of the United Development Party (PPP) and member of the Indonesian People's Representative Council (DPR RI) Arsul Sani was appointed as a Constitutional Court (MK) Judge after Constitutional Justice Wahinuddin Adams will be 70 years old or reach retirement age as a Constitutional Court judge in January 2024. Arsul Sani was elected as a Constitutional Court judge based on a proposal from the House of Representatives (DPR). The decision was taken at the DPR plenary meeting on Tuesday, October 3 2023. Until now, Arsul Sani admitted that he had not resigned as a cadre of the United Development Party (PPP) and member of the DPR RI after being approved as a Constitutional Court judge. Arsul Sani explained that his inauguration as a Constitutional Court judge would be held no later than January 17, 2024. Arsul Sani renounced his status as a PPP cadre and member of the DPR when he was inaugurated(C. Indonesia, n.d.).

The election of Arsul Sani as Constitutional Judge is not by the provisions of Law no. 24 of 2003 concerning the Constitutional Court, where Article 17 states, "Constitutional Judges are prohibited from serving as: a. other state officials, b. political party members, c. entrepreneur, d. advocate; or, e. civil servants" (Ad et al., 2022). PPP Deputy Chairman Arsul Sani admitted that he had not resigned as a PPP cadre and member of the DPR after being approved as a Constitutional Court judge in the DPR plenary session. Arsul confirmed that he was still undergoing

recess activities as a member of the DPR because he had received the recess money facility for DPR members. Because of this, he said he would take advantage of the recess to say goodbye to his constituents. Arsul admitted that he had met the Acting Chairman of PPP, Muhammad Mardiono, to report the suitability and compliance test results as a candidate for Constitutional Court Judge. On that occasion, he submitted his resignation as a legislative candidate for the PPP Party.

Arsul also explained that he would resign as a member of the DPR and Deputy Chair of the People's Consultative Assembly (MPR). He said PPP cadre Munawaroh would replace him as a member of the DPR. Commission III of the DPR decided that Arsul Sani, the Deputy General Chair of the PPP, will be the Constitutional Court Judge replacing Wahinuddin Adams, whose position ends in January 2024. This decision was agreed upon at the DPR plenary meeting. Furthermore, Arsul Sani, a candidate for Constitutional Court Judge, is a member of DPR RI Commission 3 and has not yet resigned from the political party and is a member of the DPR RI. Then, it will have the following negative impacts:

1. Recruitment will be labeled as recruitment that requires an interest in a political party.
2. The fit and proper test process at Commission 3 of the DPR RI will create a spirit of brotherhood between DPR RI Commission 3 members and prospective judges because they are judges.
3. Come from the same place, Commission 3 of the DPR RI, so the

candidate will automatically receive approval.

Implementing the selection of Constitutional Judges carried out by the DPR is quite fast and does not have standard standards according to their wishes and interests. Therefore, this research focuses on the rules or implementation of the selection of Constitutional Judges, especially in the DPR.

RESEARCH METHODS

The type of research in this writing is normative doctrinal/juridical legal research, providing assessment/justification of phenomena that occur through legal construction (Mukti Fajar ND & Yulianto Achmad, 2013). The approach is based on the main legal material by examining theories, concepts, legal principles and statutory regulations related to this research.

The approach methods used are the conceptual approach, the statutory approach and the case approach. Data analysis in this descriptive qualitative research was conducted by selecting data obtained using statutory regulations and case approaches. The result of data selection was data classification based on categories of legal materials.

This research analyses a case or legal event, namely a candidate for Constitutional Court judge whom the DPR RI plenary meeting had appointed. Still, the candidate had not yet withdrawn from his status as a member of the PPP political party. Therefore, the basis for this analysis is based on Article 17 of Law no. 24 of 2003 concerning the Constitutional Court.

RESULTS AND DISCUSSION

1. The Urgency of Restricting Political Party Cadres For The Selection Of Constitutional Judges

The Model for Recruitment and Selection of Constitutional Court Judges using a Selection Panel either by the respective Institution Proposing Constitutional Judges or a selection Panel in the form of a joint Agreement with the Institution Proposing Constitutional Judges is a legal reform whose main aim is to produce constitutional judges who have the ideal integrity as true statesmen. The recruitment process using a clear and standard selection panel is a fulfillment of the main principles in filling the position of the constitutional judge as mandated by the Constitutional Court Law, namely accountable (the process and results can be accounted for), participative (there is public participation in the overall selection process), objective (based on competency percentage) and transparency (known to the public). After that, the position of this selection panel does not conflict with existing laws and regulations as long as it is interpreted as the absence of the authority of other institutions that will reduce the authority of the institution proposing constitutional judges (Wantu et al., 2021). Even though the selection process has been made in such a good way, people who come from political cadres always appear to nominate themselves as Constitutional Court judges who come from political party cadres who create problems in the Constitutional Court, such as committing acts of corruption and so on, which result in the collapse of the Court's moral values. Constitution.

Regulations regarding Constitutional Judges have also been regulated in the

Judicial Power Law that the elements of nominating constitutional judges consist of the concept of nomination, which is carried out transparently and participation, and the concept of election, which is carried out objectively and accountably. Then, article 35 of the Judicial Power Law emphasizes that further provisions regarding the conditions and procedures for appointing constitutional judges are regulated in law. Law of the Republic of Indonesia no. 24 of 2003 concerning the Constitutional Court in Article 17 states clearly that Constitutional Judges are prohibited from serving (Wantu et al., 2021)

- a. Other state officials
- b. Political party members
- c. Businessman
- d. Advocate
- e. Government employees

It should be realized that the Constitutional Court Law has given free space to the President. DPR and the Supreme Court (MA) to create a recruitment system for Constitutional Judges so that the recruitment pattern created looks very contrasting. The element of subjectivity by the President, the voting mechanism by the DPR and the closed system by the Supreme Court are the 3 models for recruiting constitutional judges that have been carried out so far. Unfortunately, the product of this system experiences complex problems amid the ongoing periodization of the leadership of Constitutional Judges, which does not affect the integrity of judges. Still, at least there is a standardization of the recruitment pattern for Constitutional Judges, which is compatible without reducing the president's authority, DPR

and Supreme Court, which has been established by law. (Wantu et al., 2021).

Of course, the implementation of the appointment of Candidates for Constitutional Justices who are truly competent in their fields and have integrity in carrying out their duties and responsibilities is very great, whose function is as guardians of the Constitution, Protector of the Constitutional Rights of Citizens and the Guardian of Democracy. (Pasaribu, 2023)

To maintain independence and good recruitment by legal procedures and principles, every candidate who is appointed as a candidate for Constitutional Court judge must, according to statutory regulations, resign from political office, including resigning as a member of a political party. Political party cadres need to be restricted from taking part in the recruitment for the selection of judges for the Constitutional Court because it is not permissible from a legal morality perspective. When a political party is in the judiciary, it can benefit the party, namely when the United Development Party (PPP) becomes a party to the Constitutional Court (MK).

2. Concept Of Restricting Political Party Cadres To Become Constitutional Judges

Arsul Sani admitted that he was ready to resign from his current public position, namely member of the DPR-RI and Deputy Chair of the MPR-RI, if elected as MK. Likewise, renouncing his membership as a member of the PPP, he said, was a consequence that must be carried out by every person who is elected as an MK judge. "For example, if I were elected, the consequences would be to

quit the DPR and resign as a party member. Because of the law," said Arsul Sani (Kompas.com, 2023).

The correct implementation of the selection and appointment of constitutional judges is that the proposed candidate should first resign from their position. Constitutional Judges are not allowed to hold concurrent positions, as stated in Article 17 of Law No. 24 concerning the Constitutional Court. This is inversely proportional to the appointment of Constitutional Court judges proposed by the DPR (Mapossa, 2018).

Arsul Sani has not officially resigned from his positions, namely as a member of the DPR RI and Deputy Chair of the MPR RI, as well as his membership as a member of the United Development Party (PPP). However, the DPR unanimously appointed Arsul Sani as Constitutional Court Judge and will be appointed in January 2024. The selection process for constitutional judges in the DPR (a) has included public participation. However, there was an announcement via the mass media in the 2008 recruitment process for Constitutional Judge candidates. Still, the people were given a time limit to provide input or suggestions regarding the track record of constitutional judge candidates. In contrast, in 2014, there was no time limit so that the people could provide input or suggestions from the initial announcement through the mass media until the meeting to elect constitutional judge candidates through the DPR plenary session. The cause of the change in time for providing input and suggestions is that the community or the public wants to be widely involved until the determination of prospective Constitutional Court judges

by the DPR RI plenary session in providing input and suggestions, this is to maintain transparency and public involvement in the recruitment of Constitutional Court judges; (b) regarding the fit and paper test, the expert team in carrying out the fit and paper test (type of exam), procedures for making manuscripts, presenting papers, questions and answers for the Expert Team and 3 factions along with time limits, procedures for giving recommendations, explanation of the form of recommendations and limitations time to Commission III of the DPR regarding candidates for constitutional justices, faction members who will conduct questions and answers to prospective constitutional justices, and Commission III of the DPR which makes decisions through a decision-making mechanism (musyawarah mufakat or voting) (Wijayanti et al., 2016).

Participatory, namely by publication through print and electronic mass media, as explained in the Elucidation to Article 19 of the Constitutional Court Law. The explanation of Article 19 of the Constitutional Court Law states, "Based on this provision, constitutional judge candidates are published in the mass media, both print and electronic, so that the public has the opportunity to provide input on the candidate judge concerned." The explanation of Article 19 of the Constitutional Court Law is not just an example of implementing the norms of Article 19 of the Constitutional Court Law. Matters relating to "published in mass media, both print and electronic" are considered examples of provisions of a "transparent and participatory" nature other than publication in print or

electronic mass media, either directly (by placing advertisements or advertisements) or indirectly (by opening opportunities for coverage by mass media). The process of selecting and appointing Constitutional Justice Arsul Sani by the DPR was not transparent and participative (R. Indonesia, 2003).

This deviates from the mandate of Article 20 Paragraph (2) of Law Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court. Based on monitoring by the Center for Legal Studies and policies on the DPR agenda, no information was found regarding the opening of the selection of candidates for Constitutional Court judges. However, the candidate's name suddenly appeared. Apart from that, the process was rushed and short, not allowing for broad public participation in every selection stage, even for direct monitoring in the DPR. The Center for Indonesian Law and Policy Studies (PSHK) also views that the selection process carried out by the panel of members of Commission III of the DPR directly creates the potential for a potential conflict of interest, especially when there are prospective candidates who have a background as members of the DPR. (Wantu et al., 2021).

The relative recruitment system influences judges when carrying out their functions and duties. This is because an objective and accountable process for selecting judges can guarantee the acceptance of constitutional judges in society. At this point, the community, as an agent of social control, can see the objective and accountable parameters used as a benchmark by the proposing

state institution to see whether it aligns with community expectations.

Apart from the public's trust in the Constitutional Court, in 2014, the Constitutional Court damaged it with the exposure of Akil Mochtar as a constitutional judge who was declared guilty of committing the crime of money laundering in connection with a regional election dispute case at the Constitutional Court. Therefore, public confidence has decreased. From 2015 to 2016, requests for judicial review of the law no longer increased; in 2016, there was a decrease of 20.71%, namely by III requests from the previous year, which reached 140 requests. Not only that, in January 2017, the public was shocked by the Patrialis Akbar Hand Capture Operation (OTT) by the Corruption Eradication Commission (KPK), was suspected of accepting bribes related to the material review of the Animal Husbandry and Health Law. The cases of Akil Mochtar and Patrialis Akbar must be used to evaluate the quality of constitutional judges. One indicator that influences the quality of constitutional judges is the selection process for constitutional judges. (Indramayu et al., 2017).

On October 2, 2013, the Chief Justice of the Constitutional Court, Akil Mochtar, was arrested by the Corruption Eradication Commission (KPK) at his official residence in Jakarta on suspicion of accepting bribes in handling the ownership lawsuit in Gunung Mas Regency, Central Kalimantan and Lebak Regency, Banten. The next day, he and 5 other people were officially named suspects by the Corruption Eradication Commission (KPK). During a search in his office at the Constitutional Court

Building, KPK investigators also found drugs. In court, Akil Mochtar was finally found guilty and sentenced to life imprisonment. Just imagine a supreme judge serving as the Constitutional Court's chairman committing a criminal act of corruption. Of course, this will undermine public trust in law enforcement.

In 2013, Patrialis became a Constitutional Court judge through government channels after previously taking the test for candidates for Constitutional Court judges in 2008 but was not selected. In 2013, he ran again, but in the middle of the year, he resigned. Patrialis' appointment was rejected. The reason is that the process for appointing Patrialis is not transparent and does not involve public participation. Before being arrested by the Corruption Eradication Committee, Patrialis had been reported for violations at least four times to the Ethics Council of the Constitutional Court. These reports relate, among other things, to resolving disputes over the 2015 simultaneous regional elections, not attending trials because of testing students, testing former Chief Justice of the Constitutional Court Akil Mochtar at the KPK, conflicts of interest and several reports related to public statements. Sadly, Patrialis Akbar was one of the members of the amendments to the 1945 Constitution and played a major role in producing the Law on eradicating criminal acts of corruption and the Corruption Eradication Committee Law.

In 2022, shocking news came from the Constitutional Court; one of the constitutional judges, Aswanto, was removed from his position by the Indonesian House of Representatives (DPR). Instead, the DPR appointed

Guntur Hamzah. This appointment was ratified through a DPR plenary meeting. The reason why the DPR removed Aswanto was no less surprising. Chairman of Commission III DPR RI Bambang Wuryanto said that the performance of constitutional judges was disappointing because they often canceled legislative products from the DPR. Aswanto is a constitutional judge who was previously elected through a proposal from the DPR. Bambang also said that Aswanto had no commitment to the DPR. He also did not deny that Aswanto was a political decision.

Aswanto is not new to the Constitutional Court. He has served as one of nine constitutional judges since 2014. In 2019, he was re-elected as a Constitutional Court judge as proposed by the DPR. Referring to the term of office of the new constitutional judge, Aswanto was supposed to serve until March 2019. Aswanto was also trusted as Deputy Chairman of the Constitutional Court in his structural position from April 2018 to September 2021. Before becoming a judge, the Constitutional Judge was a man born in Palopo, South Sulawesi, 17 July 1994. He has been involved in education for a long time (Siregar et al., 2021).

Aswan to, based on the interpretation of the letter, which became the right of the People's Representative Council and which was then used by the People's Representative Council as a gap to intervene with constitutional judges, the actions of the People's Representative Council have eroded the Constitutional Court as a state institution which considers that the People's Representative Council is not bound by legal considerations in the decisions of the

Constitutional Court, as a state institution, should consider that the People's Representative Council is not bound by legal considerations in the Constitutional Court's decision so that it then unilaterally interprets the confirmation letter to replace judges according to their wishes. According to Zico, the arrogance of the People's Representative Council will reduce public confidence in the People's Representative Council as a superpower institution that can replace its representative Constitutional Court Judges at any time based on their likes and dislikes. This bad action by the House of Representatives does not rule out the possibility that it will be emulated by other institutions, namely other parties who also have the right to nominate constitutional judges (the Supreme Court and the President) to join in replacing constitutional judges at any time for reasons of not committing to the wishes of those who appointed them, for reasons such as The DPR's action is to consider constitutional judges to be their "representatives." (Aji, 2023).

Lastly, the recruitment process for Judge Arief Hidayat in the second period was very controversial. After receiving several ethical violations based on the Ethics Council's decision, Arief Hidayat continued to remain smoothly as a Constitutional Court judge in his second term. When the DPR proposed Arief Hidayat, Arief Hidayat was selected as a Constitutional Court judge without a clear, transparent, accountable selection process and state ethics. It was proven that this process received a verbal warning from the Ethics Council because it was proven that they met with Commission III DPR RI members.

The existence of constitutional judges reflects the authority of the state. Therefore, a constitutional judge must follow a good recruitment process to create good performance and uphold the judge's code of ethics. The provisions of Article 1, to be appointed as a constitutional judge, a prospective constitutional judge must: a. Indonesian citizens; b. have a law degree; c. at least 40 (forty) years of age at the time of appointment; d. never been sentenced to imprisonment based on a court decision that has permanent legal force for committing a criminal offense of imprisonment for 5 (five) years or more; e. not being declared bankrupt based on a court decision; and f. have work experience in the legal field of at least 10 (ten) years (Fitriyah, 2020).

Before assuming office, constitutional judges take an oath or promise according to their religion, which reads as follows: "By Allah, I will swear that I will fulfill the obligations of constitutional judges as best as possible and fairly, upholding the Constitution of the Republic of Indonesia in 1945 and carry out all laws and regulations strictly according to the 1945 Constitution of the Republic of Indonesia and serve the country and the nation." As well as the Constitutional Judge's promise, which reads, "I promise that I will seriously fulfill the obligations of a constitutional judge as well and fairly as possible, upholding the 1945 Constitution of the Republic of Indonesia and implementing all statutory regulations as straight as possible." strictly according to the 1945 Constitution and devotion to the homeland and the nation." (R. Indonesia, 2003)

There is no mechanism regarding the recruitment of constitutional judges, Article 20 of the Republic of Indonesia Law no. 24 of 2003 concerning the Constitutional Court. It only mentions the provisions regarding the procedures for selection, selection and nomination of constitutional judges regulated by each institution referred to in Article 18 paragraph (1). Looking at the history of the development of Constitutional Judges who most often cause violations are people from political parties, one of which is Patrialis Akbar, the DPR also unilaterally removed Constitutional Court Judge Aswanto. According to Patrialis' track record, he is a politician who ran for office as an MK judge and was elected but ended up committing acts of corruption at the MK, so he was punished because he was proven guilty. According to Akil Mochtar's track record, he was a politician after serving in the Indonesian House of Representatives, then ran for office as an MK judge and was elected, but ended up committing acts of corruption at the MK, so he was sentenced to life imprisonment. Then, Aswanto's track record came from an academic who was proposed by the DPR RI as a candidate for Constitutional Court judge and was elected. Still, for no apparent reason, Aswanto was removed by the DPR.

This shows that the People's Representative Council often takes action according to its wishes without looking at the rules or laws that apply in Indonesia. Instead of improving and evaluating previous incidents that have occurred in the realm of the Constitutional Court, the People's Representative Council did something similar this year by appointing

Arsul Sani as a Constitutional Court Judge while serving as a member of the People's Representative Council, whose election process was also somewhat complicated. Short is not transparent and participatory. It comes to the writer's mind that the appointment of Constitutional Justice Arsul Sani by the DPR can give rise to interests that prioritize themselves over collective or organizational interests (conflict of interest).

The current actions taken by the DPR are like the proverb "there are shrimps behind a rock," meaning that if someone looks good, it does not necessarily mean that their heart is sincere. It could be that he has certain or hidden intentions. Likewise, with the DPR, there may be political interests in appointing Constitutional Court judges, judging by the process and mechanisms that are carried out so quickly. The image of the DPR is very strong with the political interests of a Constitutional Judge whose duty as guardian of the constitution must fulfill the requirements as regulated by Indonesian law.

On the one hand, the judge's position is very noble; on the other hand, if one is not careful, it can lower one's dignity because of the many temptations one can fall into. As is known, the position of Judge can be said to be a position that is very close to worldly temptations. Why not? In the hands of a judge, a person's fate and future will be determined. For example, a person who was previously very rich and well-known as a donor in his community suddenly lost his dignity as a human being because he went to prison as a result of a judge's decision. Therefore, it has become a general

opinion that people who deal with the court will try as much as possible, by all means (justifies any means), to do everything as long as the judge's decision is on their side. (Satriawan & Lailam, 2021).

A judge called "your honor" and is even referred to as "God's representative" who occupies a high position in Indonesian constitutional justice must certainly have ethics and morals to carry out the mandate he carries out. The qualities that a judge must possess are symbolized by the five of a judge, namely (Bakhtiar, 2017):

1. Kartika (star) symbolizes the Judge's devotion to God Almighty with their respective beliefs according to the basis of civilized humanity;
2. Chakra (a powerful weapon for upholding justice) symbolizes the nature of justice inside and outside the service. In the judicial service, judges are fair, without prejudice or taking sides, are serious about seeking truth and justice, decide based on their conscience's convictions and can be accountable to God. Outside of their official duties, judges are respectful, orderly and straightforward, have a broad view and seek mutual understanding;
3. Candra (moon) symbolizes wisdom and authority. In their service, judges must have a personality that is wise, knowledgeable, patient, firm, disciplined and completely devoted to their profession. Outside of the office, judges must be trustworthy, full of responsibility, arouse respect, grace and authority;
4. Sari (fragrant flowers) depicts a virtuous judge who behaves

impeccably. In his service, he is always confident, polite, motivated to increase his service, wants to progress, and is tolerant. Outside of his work, he is always polite and polite, pleasant to socialize with, considerate and tries to be an example for the people around him;

5. Tirta (water) describes the character of a judge full of honesty (clean), standing above all interests, free from anyone's influence, selfless and steadfast. Meanwhile, outside the service, he must not abuse his trust and position, not have a good spirit and always be alert.

Judges in Indonesia act as the main interpreters of legal norms, which are still abstract generalists into concrete events that occur. The profession of judge is a profession with humanitarian work that must not fall into dehumanizing, which is logically mechanical so that it can fall into the abyss of legal alienation from human to human itself. Judges are responsible for returning the law to the owner of the law, namely humans. Law for humans is a tool for realizing human welfare, not law for the law itself. Meanwhile, in the realm of ethics, the judge's code of ethics is intended to maintain, uphold and maintain professional discipline (Dr. Serlika Aprita, 2020). Several elements of discipline are regulated, maintained and enforced based on a code of ethics, as follows: Protect and maintain so that no action occurs or you are professional. Maintain and maintain the integrity of the profession.

1. Maintain and maintain discipline, which consists of several elements, namely:

- a. Comply with legal provisions or rules;
- b. Consistent;
- c. Always act as a good manager in managing cases, from examining files to reading decisions;
- d. Loyalty;

Indonesia is a state of law apart from certainty; in a state of law, there must be order for the administration of the state itself, as well as the government as the administrator of the state, as well as the government as the administrator of the state and the people who are components of the state. A rule of law ensures that "the people are orderly and act by the laws in force in a country." This means the people, as does the government, must obey the law. The meaning of the rule of law, according to Thomas Carothers, is a system where the law is understood by the public and applied equally by everyone, supporting civil and political freedoms that have obtained the status of universal human rights. Crime has the right to fair treatment and the presumption of innocence until found guilty. The main institutions of the legal system, including the courts and the police, must be fair, competent, and efficient. Judges are impartial and independent, not influenced or manipulated by politics (Widagdo, n.d.).

One of the important elements for every legal state is to have an independent judicial power, in this case, a judiciary that is free and impartial and is influenced by any power or force. The mechanisms in the selection of constitutional judges can influence the impartiality, integrity and independence of constitutional judges in practice. Because these proposals still involve the emergence of politics of

retaliation, it will make it difficult for constitutional judges to be objective in the case at hand. Constitutional Court judges, as a means of enforcing the law and providing justice in the world, must fulfill all oaths and promises made before God and comply with the judge's code of ethics. In selecting and appointing a person to occupy the position of Constitutional Court Judge, of course, it must also go through a gradual and good process, which will undoubtedly create a country's success in raising the honor and dignity of its nation in law. The selection process is not done in a hurry; if anything is done well, it will give birth to something good in the future.

Suppose a prospective judge from a political party is elected as a Constitutional Court judge. In that case, it will cause legal problems in the future when adjudicating cases that relate to the political party to which he used to belong. The potential problems are as follows:

- a. When there is a political dispute or case involving the judge's party or former party, the Constitutional Court judge will indirectly defend his party. Things like this cause the independence of judges to collapse;
- b. Constitutional Court judges from political parties tend to be easier to approach using lobbying (negotiation) methods, so the judge's integrity will be directly lost. An example of a Constitutional Court judge involved in corruption is Patrialis Akbar.

There are no regulations regarding limiting political party cadres to become constitutional judges. However, the prohibition on holding concurrent positions for Constitutional Judges is

regulated in Article 17 of Law No. 24 of 2003 concerning the Constitutional Court. In essence, restricting political cadres from becoming Constitutional Court judges is an idea to distance the realm of politics from interfering with the judiciary (court). This step ensures judges' integrity, morality and independence to provide fair, useful decisions and certainty.

CONCLUSION

Based on the discussion of the material above, the conclusions of this research are as follows:

- a. Political party cadres need to be strictly limited with certain conditions if they wish to participate in the recruitment for the selection of Constitutional Court judges or are expressly prohibited or not permitted to become candidates for Constitutional Court judges through statutory regulations alone. The urgency for political party cadres to be prohibited from participating in selecting candidates for MK judges is due to legal morality. When political parties interfere in the realm of justice, it has the potential to benefit their party. For example, when the United Development Party (PPP) becomes a party at the Constitutional Court (MK), it benefits, considering that The relationship between party ideology and internal personality is still connected with Constitutional Court judges from political party circles.
- b. Conceptually, there are no regulations regarding the restrictions on political party cadres to become constitutional judges. However, the

prohibition on holding concurrent positions for Constitutional Judges is regulated in Article 17 of Law Number 24 of 2003 concerning the Constitutional Court. According to legal procedures and ethics, candidates for Constitutional Justice who will be nominated are not allowed to hold concurrent positions. The prohibition on political party cadres from participating in the recruitment of Constitutional Judges can neutralize or reduce conflicts of interest in the selection of Constitutional Judges or will create conflicts of interest if the judge is elected. The correct implementation and appointment of constitutional judges is that the proposed candidate should resign first from their position.

THANK-YOU NOTE

I would like to thank all the sources who have provided information and my lecturers who have guided me to complete this article.

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