

Legal Renewal In The Supervision System Of Constitutional Judges In Indonesia

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Abstract: The Constitutional Court is one of the main state organs in the Indonesian institutional structure that was formed based on article 24C mandate in conjunction with Article III of the Amendment Constitution of the Republic of Indonesia. authoritarian towards a more democratic one. The establishment of the Constitutional Court in Indonesia is at least motivated for three reasons: philosophical reasons, political reasons and socio-historical reasons. On these three grounds, it was finally realized that to create a democratic and constitutional government, an institution that has the authority to exercise judicial control is needed. The problems that arise are related to the four functions that must be carried out by the Constitutional Court, namely as guardians of the constitution, interpreters of the constitution, enforcers of democracy and guardians of human rights. The four functions are carried out through the implementation of four authorities and one obligation which can be seen as an authority as specified in Article 24C paragraph (1) and (2) Constitution of the Republic of Indonesia. why need renewal and how the ideal system of supervision of Constitutional Justices in Indonesia. The method used in this study is a normative legal research method with a focus on reviewing and reviewing various literatures regarding the supervision model of Constitutional Judges from time to time in order to find the ideal construction model of supervision of Constitutional Judges in Indonesia. The research approach used is the legislative approach, conceptual approach, and historical approach. The results of the study indicate the importance of specific arrangements where efforts are needed to reconsider the current system of supervision of the behavior of Constitutional Justices. Back to the basic thinking about the purpose of the establishment of the Constitutional Court which was then contextualized with the Constitutional Judge as the executor of the judicial power to formulate new construction (*ius constituendum*) the supervision model of the Constitutional Justice.

Index Terms: constitutional judge, legal reform, monitoring system

1 INTRODUCTION

The amendment Constitution of the Republic of Indonesia, which took place in the period October 19, 1999 - August 10, 2002, has led to massive constitutional reform of the constitution in Indonesia. This implies a shift in the power of parliamentary supremacy towards constitutional supremacy. People's sovereignty, which was once in the hands of the People's Consultative Assembly (MPR), has now changed to be in the hands of the people.¹ Strengthening the checks and balances mechanism between branches of state power is also the main agenda in the process of amending the 1945 Constitution of the Republic of Indonesia. Judging from Article 24C of the 1945 Constitution of the Republic of Indonesia, the Constitutional Court is a main state organ which was formed based on the changes in the 1945 Constitution of the Republic of Indonesia to implement a mechanism of checks and balances.² As one of the branches of the judiciary, the Constitutional Court was born and formed to handle certain cases in the field of constitutionality in order to safeguard the constitution to be carried out responsibly in accordance with the wishes of the people and the ideals of democracy. The first historical sheet of the Constitutional Court (MK) in Indonesia was opened with the approval of the establishment of the Constitutional Court in constitutional amendments carried out by the People's Consultative Assembly (MPR) in 2001 as formulated in the provisions of Article 24 paragraph (2) and Article 24C of the 1945 Constitution of the Republic of Indonesia.³ Furthermore, Article III of the Transitional Rules of the 1945 Constitution of the Republic of Indonesia ordered the establishment of the Constitutional Court no later than August 17, 2003.⁴ In other words,

the Constitutional Court is an institution in the Indonesian institutional structure formed based on Article 24C jo Article III of the 1945 Amendment to the 1945 Constitution. Jimly Asshidiqie explained that the formation of the Constitutional Court in each country has a diverse background, but in general it starts from a process of changing authoritarian power politics towards a more democratic one. The formation of the Constitutional Court in the Indonesian context is at least motivated by three reasons, namely: Philosophical reasons, the Constitutional Court was presented to emphasize that there was no more parliamentary or executive supremacy without the control of the law. This is in accordance with the teachings of constitutionalism which requires the protection of human rights as well as a balanced mechanism of checks and balances between the institutions of power formed, and the affirmation of the rule of law in the constitution; Political reasons, where the development of political reality has caused many problems which some have not been able to resolve through the arrangements and mechanisms that exist in the 1945 Constitution of the Republic of Indonesia. Socio-historical reasons, namely the need for this institution actually existed for a long time, testing of the Law on the Constitution which was the authority of the Constitutional Court was proposed by Mohammad Yamin in the BPUPKI session, but this proposal was later rejected by Soepomo on the grounds that the constitutional system for Indonesia was not suitable when using pure *trias politica* with a few legal experts. On these three grounds, it was finally realized that to create a democratic and constitutional government, an institution that has the authority to exercise judicial control is needed. The Constitutional Court finally agreed to be formed in Indonesia in the third amendment to the 1945 Constitution of the Republic of Indonesia which was passed on 10 August 2002. Ideally, there are four functions that the Court must carry out in the Indonesian constitutional system in the historical frame of its formation. The four functions are as guardians of the constitution, as interpreters of the constitution, enforcers of democracy and guardians of human rights. The four functions are carried out through the implementation of four authorities

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and one obligation which can be seen as an authority as determined in Article 24 C paragraph (1) and (2) of the 1945 Constitution of the Republic of Indonesia. First, in terms of guarding the constitution. It is necessary to know that the term guardian of the constitution is the official term used in the General Explanation of Law Number 24 of 2003 concerning the Constitutional Court. The term in various foreign literature is commonly referred to as the guardian of constitution (guard / guardian of the constitution). With regard to this term, Mukti Fajar reminded by arguing, that it is important to keep in mind as a warning, because it could be if the Court was not careful to slip, not to be a guardian of the constitution, but to become a slaughterer or constitutional defector. This warning, of course, is something serious. How not, the function of the Constitutional Court as The Guardian of Constitution will experience many obstacles if the state administrators are not responsible, in the sense of deviating from the constitution. In order for the constitution to be carried out consequently and responsibly by each state administrator, an institution that is able to exercise control over the implementation of existing state power is needed. Second, in terms of the function of the Constitutional Court as a constitutional interpreter. The term constitutional interpreter is a translation of constitutional interpretation. Constitutional interpretation is an interpretation of the provisions contained in the constitution or constitution, or interpretation of the Basic Law. Constitutional interpretation is inseparable from judicial review activities. Albert H. Y. Chen, professor of the University of Hong Kong Law School stated: The American experience demonstrates that constitutional interpretation is inseparable from the judicial review of the constitutional of government actions, particularly legislative enactment. Such judicial review was first established by the American Supreme Court in *Marbury v Madison* (1803). The constitutional interpretation referred to here is interpretation that is used as a method of legal discovery (*rechtvinding*) based on the constitution or constitution that is used or developed in the practice of the Constitutional Court. Interpretation methods are needed because the laws and regulations are not entirely compiled in a clear form and do not open interpretations anymore. Third, the function of the Constitutional Court in terms of enforcing democracy. Jimmy Asshiddiqie said that elections are a mechanism that can guarantee the principle of popular sovereignty in a democratic country. But in fact, not a few are found to be actions that are dishonest, fraudulent or wrong in their implementation. While it is necessary to remember that for the realization of constitutional democracy, elections must be carried out according to legal provisions that guarantee the implementation of general election principles. When elections are not carried out according to applicable legal provisions, it has become imperative then to construct a legal mechanism to resolve the election dispute. This is where the Constitutional Court then plays its role as the enforcer of democracy. The function of the Constitutional Court as an enforcer of democracy can be seen in its authority to decide on electoral disputes. Because after all, without the existence of legal provisions that provide the right paths and signs, elections will only become the legitimacy of the status quo authoritarianism, or turn into anarchy. In another context, the role of the Constitutional Court as the enforcer of democracy can also be seen from its authority to decide on the request for the dissolution of political parties in Indonesia. Fourth, the Court is

the guardian of human rights. In this case, the constitution as a document that contains the protection of human rights is a document that must be respected. The constitution guarantees certain rights of the people. If the legislature and executive institutionally injure the constitution, then this is where the MK plays its role in solving the problem. Or in other words, the function of the Constitutional Court in terms of safeguarding human rights can be seen when the Constitutional Court cancels the regulations made by the legislature when it does not uphold the values of human rights. To support the function of the Constitutional Court as mandated by its formation, then Law Number 24 of 2003 was established on the Constitutional Court. It was stated in the law that the Constitutional Court as one of the judicial power actors had an important role in efforts to uphold the constitution and the principle of the rule of law in accordance with their duties and authorities as determined in the 1945 Constitution of the Republic of Indonesia. MK; the power of the Constitutional Court; appointment and dismissal of MK judges; procedural law of the Constitutional Court; and several other provisions relating to the Constitutional Court. Eight years ago after its enactment, in 2011 a change was made to Law Number 24 of 2003. The change was based on the fact that there are several contents of the content contained in Law Number 24 of 2003 which are no longer relevant to be applied in the constitutional life then it will be implicated that the objectives of the Constitutional Court institution are hampered. Therefore, in an effort to maintain the goal of realizing the Constitutional Court as one of the perpetrators of an independent judicial power, changes were made to the Constitutional Court Law through Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court. Some of the material that is the object of change includes the first; composition of the Honorary Council of the Constitutional Court, second; supervision of constitutional justices, third; tenure of Chairperson and Deputy Chairperson of the Constitutional Court, fourth; educational requirements to be appointed as constitutional justices, and fifth; Code of Ethics and / or Code of Conduct of Constitutional Court Judges. The journey of the Constitutional Court Act did not end there. In 2014, the second amendment was made to the Constitutional Court Law. The amendment to the Law is regulated in Law Number 4 of 2014 concerning the Establishment of Government Regulation in Lieu of Law Number 1 of 2013 concerning the Second Amendment to Law Number 24 of 2003 concerning the Constitutional Court Becoming an Act. The reason behind the change is given that the 2014 general election implementation was very close at the time. For this reason, urgent and urgent steps are needed to restore the authority and trust of the people to constitutional justices by making amendments to Law Number 24 of 2003 concerning the Constitutional Court, especially regarding the terms and procedures for the selection, selection and submission of candidates for constitutional justices and the establishment of the Constitutional Court Honorary Council through the Establishment of Government Regulation in lieu of Law Number 1 of 2003 concerning the Second Amendment to Law Number 24 of 2004 concerning the Constitutional Court, needs to be stipulated as an Act. But this law is not valid for long. In the same year Law Number 4 of 2014 was later canceled by the Constitutional Court through the Constitutional Court Decision Number 1 / PUU-XII / 2014 and Court Decision

Number 2 / PUU-XII / 2014. In the verdict it was said that the applicable Law does not have permanent legal force and is contrary to the Law. In case number one, the cancellation of the Act referred to is based on the philosophical, formal and material reasons for the amendment to the Act which are not in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia. The Constitution is not regulated in the 1945 Constitution of the Republic of Indonesia so that it is considered unconstitutional. Upon the issuance of the Constitutional Court's ruling, the regulation regarding the Constitutional Court is now back in Law Number 2003 concerning the Constitutional Court and Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court. Although in its journey the Constitutional Court Law has changed twice, until now the reality is that there are still some legal problems regarding the implementation of the authority to the Constitutional Court's own institutions. One serious problem regarding the institution of the Constitutional Court is regarding Constitutional Judges. As is known that the judge basically has an important position with all the authority he has. Especially in the Constitutional Court institution, with four authorities and one obligation mandated by the 1945 Constitution of the Republic of Indonesia, the Constitutional Court demanded that not only have qualified Constitutional Justices, but also judges who have integrity. This can be implicitly seen from the formulation of Article 24 paragraph (2) and Article 24C of the 1945 Constitution of the Republic of Indonesia. However, it is very unfortunate that now, various issues, both ethical and criminal issues that ensnare some Constitutional Justices, indicate that to this day the institution of the Constitutional Court has not really had the entire Constitutional Justice as intended. The arrest of Akil Mochtar and Patrialis Akbar by the Corruption Eradication Commission (KPK) until the entanglement of Arif Hidayat in several ethical violations seemed to justify this and at the same time justify the distribution and dispersal of crimes in each organ of state power at all levels (from trias politica to trias koruptika). From several analyzes, one of the many factors that caused this occurrence was the lack of supervision carried out on Constitutional Justices after the issuance of the Constitutional Court Decision No. 005 / PUU-IV / 2006. This ruling essentially cancels the authority of the Judicial Commission (KY) in supervising Constitutional Judges. The unconstitutionality of supervision by KY according to the Constitutional Court is based on two main revised legal, namely the problematic interpretation of the constitution (original intent) and systematic, both of which according to the Constitutional Court occur inconsistency between normalization of Article 24 B paragraph (1) 1945 Constitution under Law Number 22 In 2004 regarding the Judicial Commission and Law Number 4 of 2004 concerning Judicial Power related to the implementation of other authorities in order to maintain and uphold the dignity, dignity and behavior of judges, the adoption of KY against constitutional judges was qualified contrary to the 1945 Constitution of the Republic of Indonesia. After the decision was issued, the model of supervision of constitutional justices continued to change. In 2011, in order to fill the legal vacuum of the supervisor of behavior, the Constitutional Justice Constitutional Court (MKHK) was formed as stipulated in Article 27A of Law Number 8 Year 2011 concerning Amendments to Law Number 23 Year 2004 concerning the Constitutional Court which finally

re-stated unconstitutionality by the Constitutional Court through its decision No. 49 / PUU-IX / 2011. Now, supervision of the behavior of Constitutional Justices is carried out by the Ethics Council of the Constitutional Court and the Honorary Assembly of the Constitutional Court (MKMK). In one perspective, the presence of the two supervisory organs is a concrete effort carried out to maintain and uphold the honor, dignity and code of ethics and code of conduct of constitutional justices (Sapta Karsa Utama) amidst the decreasing level of public trust in the Constitutional Court. But in another perspective, the presence of these two organs is also considered problematic and has not been fully able to resolve the problems that are now occurring. We can know these problems from the first, the issue of the existence of the Ethics Council and MKMK which are only regulated or based on the law in the Constitutional Court Regulation (PMK), namely PMK Number 2 of 2013 concerning the Ethics Council of the Constitutional Court and PMK Number 2 of 2014 concerning the Court Honorary Council Constitution. Second, the presence of these two organs has not represented the existence of an external supervisor, which in the end today still makes supervision of the behavior of Constitutional Justices not yet running effectively. This was evidenced by Arif Hidayat's entanglement in a recent ethical case. Third, MKMK as a supervisory body for the behavior of Constitutional Justices is still considered to exist but as if it does not exist or in Arabic is referred to as "wujuduhu ka adamihi". Because, with an ideal membership, MKMK is only constructed as an ad-hoc supervisory organ and its formation depends on the Ethics Council of the Constitutional Court whose membership value writer is no more ideal compared to MKMK membership. These problems ultimately lead us to a phase where efforts need to be made to reconsider the current system of supervision of the behavior of Constitutional Justices. For this reason, researchers are interested in following up by making a legal study entitled "Legal Reform in the Supervision System of Constitutional Judges in Indonesia" with the main focus of study: Why is there a need for legal reform to the Constitutional Judges' oversight system in Indonesia ideal in Indonesia?

2 METHODS

This study is a normative legal research with a focus on reviewing and reviewing various literatures regarding the oversight model of Constitutional Judges in order to look for ideal construction models of supervision of Constitutional Judges in Indonesia. The object of this research is the reconstruction of the Constitutional Court supervisory model in Indonesia. The data sources used in this study are secondary legal sources consisting of primary legal material; secondary legal material; and tertiary legal material. Material of Primary Law, is a binding legal material because it is released by the government. In this study include: the 1945 Constitution of the Republic of Indonesia; Minutes of Amendment to the 1945 Constitution; Law Number 24 of 2003 concerning the Constitutional Court; Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court; Constitutional Court Regulation Number 2 of 2013 concerning the Ethics Council of Constitutional Judges; and Constitutional Court Regulation Number 2 of 2014 concerning the Honorary Assembly of the Constitutional Court; Secondary Legal Materials, interpreted as sources of

law that are not binding but explain primary legal material which is the result of processed opinions or thoughts of experts or experts who study certain fields, in the form of books, dissertations, theses, theses, journals and papers law relating to the object of research. This secondary legal material works to improve quality in understanding the applicable positive law. Tertiary Legal Materials, interpreted as a source that provides an explanation of primary legal material and secondary legal material. In this study the form of a Large Dictionary of Indonesian Language, Legal Dictionary, and Dictionary of English-Indonesian terms. This study uses legal material collection techniques through library research research methods, namely research carried out using literature (literature), both in the form of books, scientific journals, mass media and the internet as well as other relevant references in order to answer various formulation of the problem.⁵ In addition to library research, in order to support legal material that has been collected, researchers will also collect other legal materials through direct interviews with parties related to the topic of this research. This study uses (3) the approach model. First, the legal approach. The legislation approach is used because in one section of this study, the researcher will examine the model of supervision of Constitutional Court Judges from time to time as stipulated in the legislation. The second approach is the historical approach. The historical approach is used because in one part of this study, the author tries to rediscover the basic thoughts about the purpose of the establishment of the Constitutional Court which is then contextualized by the Constitutional Judge as the executor of judicial power. The third approach is the conceptual approach. The conceptual approach is used because another section in this study will formulate a new construction (*ius constituendum*) model of supervision of Constitutional Court Judges based on several developments in the applicable legal concepts. Legal materials obtained from the results of library research were analyzed descriptively qualitatively, namely collecting and selecting legal materials in accordance with the problems studied, then described so as to produce a picture or conclusion that is in accordance with the actual conditions so as to be able to answer all existing problems.

3 FINDINGS AND DISCUSSION

Based on the theory of state law, human thoughts or conceptions are children of the age who were born and developed in historical situations with various influences. Human thought or conception of the state of law is also born and develops in historical situations. Therefore, even though the concept of the rule of law is considered a universal concept, on the ground implementation has various characteristics. This is due to the influence of the historical situation, in addition to the influence of the nation's philosophy, state ideology and others. On that basis, historically and practically, the concept of the rule of law emerged in various models such as the legal state according to the Qur'an and Sunnah or Islamic nomocracy, the legal state according to the Anglo-Saxon concept (rule of law), the concept of socialist legality, and the concept of rule of law Pancasila. The concept of this legal state has its own historical dynamics. Even though Indonesia cannot be classified into one of the legal state

groups above, but due to Dutch colonialism which adheres to a continental legal system, the formation of the rule of law and legal system in Indonesia is much affected by the continental legal system (*rechstaat*). Even in each State Policy Outline (GBHN) it is always stated that the development of national law is carried out, among others, by codification and legal unification. In the context of codification and unification of the law, it is necessary to follow the steps to formulate national legislation that is prioritized. Whereas the court ruling (*jurisprudence*) is only carried out in preparation (*inventory*) as a source of legal formation through the judiciary. Furthermore, according to Stahl, the elements of the rule of law (*rechstaat*) are as follows: Protection of human rights; Separation or division of powers to guarantee those rights; Government based on legislation; and Administrative court in disputes. According to the Independent Theory of Judicial Institutions The power of an independent judiciary is a pillar of the rule of law. The power of an independent judiciary is intended to release the interference of other state institutions, both the executive and legislative institutions of the judiciary itself. However, a legal corridor in the form of regulating laws for the implementation of judicial functions needs to be carried out so that the judiciary's unlimited power can be prevented. Reflections on the restrictions on the implementation of judicial functions can be seen in the regulation of judicial competencies and judicial jurisdiction, which are carried out in the interest of protecting the rights of justice and justice seekers. In the context of these restrictions, A.V Dicey then stated that the judiciary does not have a perfect independent position. Further, Alexis de Tocqueville gave three characteristics for the implementation of the power of an independent judiciary: The power of the judiciary in all countries is the executor of judicial functions, where the court institution only works if there is a violation of law or the rights of citizens without any other authority can intervene. The function of the judiciary only takes place if there are specific violations of the law. The judge is even said to be still in the corridor of carrying out his duties, if he decides on a case refusing to apply generally accepted principles, but if the judge rejects generally accepted principles in which he is not in a case, he can be punished on the basis. The power of the judiciary only functions if needed in the event of a dispute stipulated in the law. In essence, the implementation of the functions of the judiciary always leads to the birth of a verdict. Therefore, if a verdict ends in proof of a heinous crime, then the culprit can be punished. Likewise, if the judge decides on a violation, he can decide on a fine for the culprit. Based on the theory Judicial power is the third pillar in the modern state power system, in Indonesian, the third function of power is often called the branch of "judicial" power, from the term Dutch *judicatif*. In English, in addition to the term legislative, executive, it is not known as a judicial term, so the same term is usually used in terms of judicial, or *judicature*. In the modern state system, the judiciary branch is a branch that is organized separately. Therefore, it is said by John Alder, "the principle of separation is particularly important for the judiciary". Realizing law enforcement in the field of judicial power that is free, independent and independent is one of the goals to be achieved within the framework of the state of law and democracy. This is universally affirmed in the basic principles on the Independence of Judiciary "which was submitted as the United Nations (UN) General Resolution Number 40 dated

November 29, 1985. The resolution affirms that "free, independent and independent judicial powers are a judicial process that is free from any restrictions, improper influence, incitement and direct or indirect pressure or interference with the judicial process". Judicial power is a power in which it contains the duty to carry out legal principles through including justice. Judicial power is an independent power to conduct justice to uphold the law and justice. The independence of judicial power is a state pillar based on a democratic system and a rule of law. Judicial power in a legal state has no meaning if the authority of the state ruler is still absolute and unlimited. To limit the power of the authorities which are still absolute, it is necessary to separate the power of the state so that it is not centralized in the hands of certain state institutions. Eight years ago after its enactment, in 2011 a change was made to Law Number 24 of 2003. The change was based on the fact that there are several contents of the content contained in Law Number 24 of 2003 which are no longer relevant to be applied in the constitutional life then it will be implicated that the objectives of the Constitutional Court institution are hampered. Therefore, in an effort to maintain the goal of realizing the Constitutional Court as one of the perpetrators of an independent judicial power, changes were made to the Constitutional Court Law through Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court. Some of the material that is the object of change includes the first; composition of the Honorary Council of the Constitutional Court, second; supervision of constitutional justices, third; tenure of Chairperson and Deputy Chairperson of the Constitutional Court, fourth; educational requirements to be appointed as constitutional justices, and fifth; Code of Ethics and / or Code of Conduct of Constitutional Court Judges. The journey of the Constitutional Court Act did not end there. In 2014, the second amendment was made to the Constitutional Court Law. The amendment to the Law is regulated in Law Number 4 of 2014 concerning the Establishment of Government Regulation in Lieu of Law Number 1 of 2013 concerning the Second Amendment to Law Number 24 of 2003 concerning the Constitutional Court Becoming an Act. The reason behind the change is given that the 2014 general election was already very close at that time. For this reason, urgent and urgent steps are needed to restore the authority and trust of the people to constitutional justices by making amendments to Law Number 24 of 2003 concerning the Constitutional Court, especially regarding the terms and procedures for the selection, selection and submission of candidates for constitutional justices and the establishment of the Constitutional Court Honorary Council through the Establishment of Government Regulation in lieu of Law Number 1 of 2003 concerning the Second Amendment to Law Number 24 of 2004 concerning the Constitutional Court, needs to be stipulated as an Act. But this law is not valid for long. In the same year Law Number 4 of 2014 was later canceled by the Constitutional Court through the Constitutional Court Decision Number 1 / PUU-XII / 2014 and Court Decision Number 2 / PUU-XII / 2014. In the verdict it was said that the applicable Law does not have permanent legal force and is contrary to the Law. In case number one, the cancellation of the Act referred to is based on the philosophical, formal and material reasons for the amendment to the Act which are not in accordance with the mandate of the 1945 Constitution of the

Republic of Indonesia. The Constitution is not regulated in the 1945 Constitution of the Republic of Indonesia so that it is considered unconstitutional. Specifically speaking of judicial supervision, the principle of independence of judicial power is not an independent legal principle. These principles must go hand in hand with the principles of transparency and accountability. These two principles are transparency and accountability, which is realized in the form of supervision of judges by the Judicial Commission. Regarding the importance of the principle of independence together with transparency and accountability, Warwick Soden, Head of the Clerk of the Australian Federal Court, believes: "If the issues of transparency, accountability and judicial independence operate effectively in the administration of justice, the risk of corruption is greatly reduced." Furthermore Warwick Soden argues: "Transparency, accountability and independence are the ingredients of a successful judicial system and one that is capable of fighting corruption. Maintaining these elements are essential for supplying the judicial system with the public confidence it needs to remain legitimate. Each of the ingredients are like gears in a machine. By themselves they are important but, together, they make the machine work." In international law too many conventions that emphasize the independence of judicial power must go hand in hand with the principles of accountability or integrity. For example, in The Bangalore Principles of Judicial Conduct 2002, the principle of independence is coupled with impartiality and integrity in addition to many other legal principles. Based on the arguments above, it is clear that the principle of independence of judicial power does not run alone, but must be guarded by the principle of transparency and accountability (integrity) which in its implementation requires supervision of the behavior of judges so as not to deviate from the principle of good behavior. Related to the existence of the Judicial Commission which supervises the performance of judges, Wim Vormans research concludes that: the presence of the Judicial Commission in several European countries actually has a positive impact on judicial independence. The position of the Ethics Council is in the context of supervising and ensuring that all constitutional judges in carrying out their duties and authorities are operating in accordance with the legal rules stipulated in legislation and ethical rules as contained in the Code of Ethics and Code of Conduct. Whereas in the event of gross violations based on public reports and / or information submitted or received by the Ethics Council, the Ethics Council may then propose the formation of an Honorary Council of the Constitutional Court. Therefore, the honor and dignity and integrity of constitutional judges will be guaranteed by the existence of the Constitutional Justice Ethics Council and the Honorary Council of the Constitutional Court. Based on the above analysis, to strengthen independence and integrity, as well as to maintain the honor, dignity and avoid the misuse of authority, the institutional strengthening of an ethical supervision system is a necessity that must be realized. The normative construction of a system of ethical supervision of constitutional judges as stipulated in the Constitutional Court law is seen as not being able to provide comprehensive arrangements for the needs of the Constitutional Court, both in the institutional aspects as well as the trial procedures for the Constitutional Court Honorary Council and the Constitutional Court Ethics Council. Therefore, normative reconstruction is needed through a proposed amendment to Law Number 24 of

2003 as amended by Law Number 8 of 2011, specifically related to strengthening the ethical oversight body of constitutional judges.

4 CONCLUSION

The amendment to the Constitutional Court Law is based on the fact that there are several contents of the content material that are no longer relevant to be applied in the constitutional life, which are then considered to have implications for the obstruction of the objectives of the establishment of the MK institution. Then the second amendment was made to the Constitutional Court Law stipulated in Law Number 4 of 2014 concerning the Establishment of Government Regulation in Lieu of Law Number 1 of 2013 concerning the Second Amendment to Law Number 24 of 2003 concerning the Constitutional Court Becoming an Act. In the decision it was stated that the cancellation of the Act referred to was based on the philosophical, formal and material reasons for the amendment to the Act which was deemed not in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia. The normative construction of a system of ethical supervision of constitutional judges as stipulated in the Constitutional Court law is seen as not being able to provide comprehensive arrangements for the needs of the Constitutional Court, both in the institutional aspects as well as the trial procedures for the Constitutional Court Honorary Council and the Constitutional Court Ethics Council. Therefore, normative reconstruction is needed through a proposed amendment to Law Number 24 of 2003 as amended by Law Number 8 of 2011, specifically related to strengthening the ethical oversight body of constitutional judges. In view of these matters, the importance of special arrangements which need to be done is an effort to reconsider the system of supervision of the current conduct of Constitutional Justices as a form of legal reform and return to the basic thinking about the purpose of establishing the Constitutional Court which is then contextualized with Constitutional Justices as executors of judicial powers to formulate a new construction (*ius constituendum*) the ideal Constitutional Justice supervision model applied in Indonesia.

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