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Reformulation of the Mechanism for Filling Constitutional Court Judge Positions by the House of Representatives, with an Emphasis on Strengthening the Principles of Transparency and Public Participation, in Accordance with the Law on the Constitutional Court of the Republic of Indonesia

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ABSTRACT

The appointment of constitutional judges is a crucial aspect of safeguarding the independence of the judiciary, as stipulated in Article 24C of the 1945 Constitution of the Republic of Indonesia. The 1945 Constitution and the Constitutional Court Law require that the selection process for constitutional judges be conducted in an accountable, transparent, participatory, and objective manner. However, the mechanism for appointing constitutional judges by the House of Representatives (DPR RI) still has normative weaknesses because DPR RI Regulation No. 1 of 2020 has not yet detailed provisions regarding information transparency, public participation, and

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measurable evaluation criteria. This situation has the potential to lead to the dominance of political interests and weaken the merit system principle in the selection process. This study proposes a reformulation of the mechanism for the DPR RI to appoint Constitutional Court judges by strengthening the principles of transparency and public participation, including through open selection, publication of candidates' track records, the involvement of the public and academics, and open eligibility assessments. This reformulation is expected to foster a more independent, objective, and integrity-driven selection process for constitutional judges, thereby strengthening the legitimacy and public trust in the Constitutional Court.

Keyword: Appointment of Constitutional Court Justices, Constitutional Court, Transparency, Public Participation, and Judicial Independence

INTRODUCTION

The Constitutional Court is a state institution established through the Third Amendment to the 1945 Constitution of the Republic of Indonesia (UUD NRI) as part of the exercise of an independent judiciary, with the duty of exercising judicial authority to ensure the rule of law and the achievement of justice. The existence of this institution is affirmed in the 1945 Constitution of the Republic of Indonesia, particularly in Article 24 (2) and Article 24C, which grant the Constitutional Court the authority to review laws against the Constitution, resolve jurisdictional disputes among state institutions, rule on the dissolution of political parties, and handle disputes regarding election results.

In the study of constitutional law, the Constitutional Court is regarded as an institution that plays a key role as the guardian and interpreter of the Constitution. Jimly Asshiddiqie argues that the Constitutional Court, established under the 1945 Constitution of the Republic of Indonesia, fulfills two primary functions. First, as the guardian of the constitution, the Constitutional Court is tasked with ensuring that the provisions of the 1945 Constitution are consistently implemented by all state officials and other subjects of constitutional law, including citizens, so that constitutional values can be applied appropriately and responsibly. Second, the Constitutional Court holds the position of constitutional interpreter, as this institution is designed to be the sole body authorized to provide official interpretations of the 1945 Constitution. Through this function, the

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Constitutional Court plays a role in filling gaps, refining, and addressing various weaknesses in constitutional provisions.[1]

The Constitutional Court holds a vital role as the guardian of the Constitution, serving to reconcile the interests of the state with the protection of citizens' constitutional rights through its authority to review laws against the 1945 Constitution of the Republic of Indonesia, in accordance with the provisions of Article 24C (1) of the 1945 Constitution. This judicial review authority serves as a constitutional instrument for the public to obtain legal protection if their constitutional rights are infringed upon by the enactment of a law. As affirmed in Constitutional Court Decision No. 006/PUU-III/2005, the infringement of constitutional rights is the primary basis for filing a petition for judicial review of a law. [2]

Given the significant functions and authority vested in the Constitutional Court, the process of appointing constitutional judges must be carried out with the utmost seriousness and caution. Key considerations include the constitutional expertise and qualifications of the judges, as well as their personal integrity and accountability. This is important because judges are the primary actors in the administration of justice, bearing a great responsibility to uphold their mandate as upholders and adjudicators of justice in Indonesia. Thus, every decision rendered must not only be accountable to the public but also morally accountable before God Almighty.[3]

his provision is consistent with Article 24C (3) of the 1945 Constitution of the Republic of Indonesia, which stipulates that the Constitutional Court shall consist of nine justices nominated by the three branches of government: the Supreme Court, the People's Representative Council, and the President. Such an arrangement demonstrates the application of the principle of checks and balances to prevent the dominance of any single branch of government in the process of determining the composition of the Constitutional Court.

More detailed provisions regarding the mechanism for filling Constitutional Court judge positions are set forth in Articles 15 through 22 of Law No. 24 of 2003 on the Constitutional Court,

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[1] Soimin dan Mashuriyanto, 2013, Mahkamah Konstitusi Dalam Sistem Ketatanegaraan Indonesia, Yogyakarta: UII Press, Hlm 51.

[2] Bambang Sugianto, Windi Arista, dan Muhammad Nur Amin, Kedudukan Mahkamah Konstitusi Dalam Menjaga Hak Konstitusional Warga Negara, Lex Stricta Jurnal Ilmu Hukum, Volume 4 Nomor 3 April 2026, Hlm 468

[3] Ahmad Syaifudin Anwar, Kemandirian Kekuasaan Kehakiman dalam Mekanisme Pengangkatan dan Pemberhentian Hakim Konstitusi, Staatsrecht Jurnal Hukum Kenegaraan dan Politik Islam, Vol. 2, No. 2, Desember 2022, Hlm 266

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as last amended by Law No. 7 of 2020 on the Third Amendment to Law No. 24 of 2003 on the Constitutional Court also establishes strict qualification standards for constitutional judge candidates covering academic, professional, and moral aspects demonstrating that the position of constitutional judge is a state mandate requiring the highest integrity.

In practice, the mechanism for filling constitutional judge positions, particularly those nominated by the House of Representatives, still faces various challenges. One prominent issue is the lack of public participation and transparency in the selection process, which risks undermining the principles of objectivity and accountability.

he selection process for constitutional judges is often seen as susceptible to political interests if the involvement of the President and the House of Representatives whose members come from political parties becomes too dominant. Although these roles are based on constitutional provisions, this does not preclude the possibility of designing new mechanisms for the selection of constitutional judges.[4] In the selection process for constitutional judges, the three branches of government that make nominations namely, the President, the Supreme Court, and the House of Representatives have the ability to alter the selection mechanism in accordance with prevailing political interests or dynamics at the time the selection process takes place.[5]

This phenomenon is evident in the controversy surrounding the appointment of constitutional judges nominated by the House of Representatives, a process deemed to have taken place behind closed doors and lacking transparency for the public. The selection process for Constitutional Court judges nominated by the House of Representatives through the House's Commission III has drawn criticism from a number of professors of constitutional law. This criticism emerged from the nomination of Inosentius Samsul through to the swift replacement with a DPR member from the Golkar Faction, Adies Kadir. In the view of Susi Dwi Harijanti, a Professor of Constitutional Law at Padjadjaran University, this process raises various issues regarding transparency and selection mechanisms, as highlighted in a discussion forum organized by the Constitutional and Administrative Law Society (CALS) titled "Exposing the Flaws in the Selection of Constitutional Court Justices" on Friday, January 30, 2026, which affirmed that Constitutional Court justices were selected through a flawed procedure. Citing Sebastian Pompe's

[4] Feri Amsari, Pengisian Jabatan Hakim Agung dan Hakim Konstitusi, PT RajaGrafindo Persada, Jakarta, Hlm v
[5] *Ibid*, Hlm v-vi

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work titled "The Indonesian Supreme Court: A Study of Institutional Collapse", Prof. Susi Dwi Harijanti argued that the pattern of filling Constitutional Court judge positions during this period shows signs of institutional collapse a condition where the judicial institution no longer functions optimally due to a recruitment process that does not prioritize integrity, independence, and competence as primary considerations.[6]

Procedurally, this process does indeed remain within the framework of the DPR's mechanisms as stipulated in Article 226 of House of Representatives Regulation No. 1 of 2020 on Rules of Procedure, starting with the DPR Consultative Body, which is tasked with drafting and organizing the agenda for the discussion of nominations, deliberations, and appointment of Constitutional Court justices to the relevant committee, the implementation of which is carried out through systematic and tiered stages, ranging from the administrative vetting of candidates, the presentation of candidates' visions and missions, the conduct of fit-and-proper tests, the determination of the order of candidates, to public notification.

In constitutional law studies, the mechanism for filling a constitutional judge position is not merely an administrative process, but rather a part of the constitutional design that determines the direction of constitutional enforcement. Therefore, any weakness in the selection mechanism must be viewed as a serious issue requiring normative reform.

Based on the above, there is a need for a normative reformulation of the mechanism by which the House of Representatives selects Constitutional Court justices, grounded in the principle of transparency. This reformulation is expected not only to improve procedural aspects but also to substantively strengthen the independence and integrity of constitutional judges. Thus, the Constitutional Court can continue to carry out its function as a credible and authoritative guardian of the constitution within Indonesia's constitutional system. Therefore, the author will examine the reformulation of the mechanism for filling Constitutional Court judge positions by the House of Representatives with an emphasis on strengthening the principles of transparency and participation based on the Constitutional Court Law, with the following research questions:

1. What is the mechanism for the selection of Constitutional Court justices by the House of Representatives under the provisions of Law No. 24 of 2003 on the Constitutional Court, as amended, and House of Representatives Regulation No. 1 of 2020?

[6] https://www.hukumonline.com/berita/a/pemilihan-adies-kadir-jadi-hakim-mk-dinilai-borok-dan-melanggar-konstitusi-lt697dccba4f085/ diakses pada 21 April 2026

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2. What are the normative weaknesses in the mechanism for the selection of Constitutional Court justices by the House of Representatives that have the potential to undermine the application of the principles of transparency and participation and affect the independence and integrity of constitutional justices?
3. How should the mechanism for appointing Constitutional Court judges by the House of Representatives be reformulated to strengthen the principles of transparency and participation in accordance with the Constitutional Court Law from a Good Governance perspective?

METHOD

The author examines research that will focus on the reformulation of the mechanism for selecting Constitutional Court Justices by the House of Representatives, with an emphasis on strengthening the principles of transparency and participation in accordance with the Law on the Constitutional Court of the Republic of Indonesia, using the normative legal research method. Normative legal research essentially views the concept of law as encompassing norms codified in legislation as well as rules that serve as guidelines for societal behavior.[7]

In legal research, it is necessary to employ an approach that aims to examine an issue from various perspectives in order to provide answers to the legal issues under study through appropriate methods and stages. The author employs several approaches. First, the statutory approach, which involves examining various laws and regulations related to the legal issue under discussion, including the Constitutional Court Act and House of Representatives Regulation No. 1 of 2020. Second, the conceptual approach, which is based on concepts, legal doctrines, and various ideas developed in legal studies and legislation.

[7] Derita Prapti Rahayu dan Sulaiman, 2020, Metode Penelitian Hukum, Thafa Media, Yogyakarta, hlm 87

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RESULT & DISCUSSION

1. The mechanism for the selection of Constitutional Court justices by the House of Representatives, as provided for in Law No. 24 of 2003 on the Constitutional Court, as amended, and House of Representatives Regulation No. 1 of 2020

The affirmation that Indonesia is a state governed by the rule of law, which was originally found only in the Explanatory Notes to the 1945 Constitution, was explicitly enshrined in Article 1, paragraph (3) following the amendment of the 1945 Constitution, which states that "The State of Indonesia is a state governed by the rule of law." This provision implies that every action, policy, and conduct of state officials and citizens is based on and subject to applicable law. The principle of the rule of law also aims to prevent arbitrary actions and the abuse of power, whether by state officials or the public.[8]

According to Franz Magnis-Suseno, there are several indicators that point to the existence of the rule of law in a democratic system, namely: the exercise of state functions in accordance with the constitution; the guarantee of human rights; the exercise of power in accordance with the law; the availability of judicial mechanisms to review state actions; and the existence of an independent and impartial judiciary.[9]

To realize one of the principles of the rule of law articulated by Frans Magnis S. namely, an independent and impartial judiciary it is necessary to establish transparent and participatory regulations governing the requirements and procedures for filling judicial positions, including those of constitutional judges.

The requirements for holding the office of constitutional judge are set forth in Article 24C, paragraph (5) of the 1945 Constitution of the Republic of Indonesia, which stipulates thatconstitutional judges must possess integrity and be of good character, be impartial, possess a spirit of statesmanship, have a thorough understanding of the Constitution and the state system, and not hold concurrent positions as state officials.

Furthermore, provisions regarding the appointment of constitutional judges are mandated to be further regulated by law in accordance with the provisions of Article 24C,

[8] Alwi Wahyudi, 2014, *Ilmu Negara dan Tipologi Kepemimpinan Negara*, Pustaka Pelajar, Kota Yogyakarta, hlm. 235.
[9] Fajlurrahman Jurdi, 2016, Teori Negara Hukum, Setara Press, Malang, Hlm 22

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paragraph (6) of the 1945 Constitution of the Republic of Indonesia. In fulfillment of this constitutional mandate, Law No. 24 of 2003 on the Constitutional Court was enacted, which subsequently underwent several amendments and was most recently amended by Law No. 7 of 2020 on the Third Amendment to Law No. 24 of 2003 on the Constitutional Court. One of the matters regulated in this law relates to the mechanism for the appointment of constitutional judges.

The requirements for candidates for the Constitutional Court are set forth in Article 15 of the Constitutional Court Act. This provision stipulates that constitutional judges must possess integrity and be of good character, act impartially, and demonstrate a sense of statesmanship, along with a sound understanding of the Constitution and the system of government.

In addition to these requirements, candidates for constitutional judges must meet a number of other criteria, including being an Indonesian citizen, holding a doctoral degree with a background in legal education starting from the undergraduate level, being devout toward God Almighty and possessing noble character, being at least 55 years of age, and having the physical and mental capacity to perform the duties of the office. Furthermore, candidates for constitutional judges must never have been sentenced to imprisonment pursuant to a final and binding court decision, must not be in a state of bankruptcy, and must have at least 15 (fifteen) years of professional experience in the legal field.

The law also stipulates the administrative requirements for candidates for the position of constitutional judge, such as a written statement of willingness to serve as a constitutional judge, a certified copy of a valid diploma, a curriculum vitae, a statement of assets and sources of income certified by the competent authority, and a taxpayer identification number (NPWP).

Furthermore, the prohibition on constitutional judges holding concurrent positions is stipulated in Article 17 of the Constitutional Court Law. This provision states that constitutional judges are not permitted to concurrently serve as other state officials, members of political parties, businesspeople, lawyers, or civil servants, in order to safeguard the independence and professionalism of the constitutional judiciary.

The provisions regarding the mechanism for nominating and appointing Constitutional Court justices are set forth in Article 18 of the Constitutional Court Law. These provisions state that three candidates for constitutional judges are nominated by the Supreme

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Court, the House of Representatives, and the President, respectively, and are subsequently appointed by Presidential Decree. Furthermore, the President is required to issue such a decree no later than seven working days after receiving the nominations for constitutional judges.

The provision stating that the process of filling vacancies for Constitutional Court judge nominees must be conducted in a transparent and participatory manner is set forth in Article 19 of the Constitutional Court Law, which stipulates that the nomination of Constitutional Court judges must be conducted in accordance with the principle of openness and involve public participation.

More detailed provisions regarding the mechanism for filling these positions are set forth in Article 20 of the Constitutional Court Law. These provisions stipulate that the procedures for the selection, election, and nomination of constitutional judges are governed by the respective nominating bodies as referred to in Article 18(1), namely the Supreme Court, the House of Representatives, and the President. Furthermore, the selection process conducted by these three state institutions must be carried out in an objective, accountable, transparent, and open manner by each respective nominating body.

Pursuant to the delegation of authority under Article 20(2) of the Constitutional Court Law, the House of Representatives enacted House of Representatives Regulation No. 1 of 2020 on Rules of Procedure, which serves as a guideline for the process of electing constitutional court justices from among members of the House of Representatives, specifically as provided for in Articles 226 and 227.

The mechanism for the House of Representatives' deliberation on candidates for constitutional judge positions is regulated in Article 226 of House of Representatives Regulation No. 1 of 2020. This provision stipulates that any appointment process requiring a proposal, approval, or consideration by the House of Representatives must be conducted through a Plenary Session, which tasks the Consultative Body with setting the deliberation schedule and coordinating the deliberations with the relevant committees. Furthermore, the relevant committee establishes the procedures for conducting the deliberation, which consist of an administrative review, an elaboration of the candidate's vision and mission, the conduct of a fit and proper test, the determination of the order of candidates, and the dissemination of a public notice through print and digital media.

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Meanwhile, the provisions regarding the determination of the results of the House of Representatives' deliberations on constitutional court justice nominees are set forth in Article 227 of House of Representatives Regulation No. 1 of 2020. This provision states that the number of candidates nominated or approved must comply with the provisions of applicable laws and regulations. Furthermore, the results of the deliberations conducted by the relevant committee are subsequently reported at a meeting of the Consultative Body and then ratified at a plenary session of the DPR.

By reviewing the official website of the Constitutional Court (www.mkri.id), the author has compiled a list of constitutional judges based on nominations by the House of Representatives from 2003 to the present, grouping them by term of office and status in Table 1 as follows:

Table 1. Constitutional Court Justices Based on the Recommendations of the House of Representatives [10]

No	Judge's Name	Term of Office	Status
1.	Achmad Roestandi	2003–2008	Early period
2.	Harjono	2003–2008 and 2009–2014	2 terms
3.	Jimly Asshiddiqie	2008–2009	Transition
4.	Moh. Mahfud MD	2008–2011 and 2011–2013	2 terms
5.	Akil Mochtar	2008–2013 and 2013–2015	2 terms
6.	Arief Hidayat	2013–2018 and 2018–2026	2 terms
7.	Aswanto	2014–2019 and 2019–2029	2 terms
8.	Wahiduddin Adams	2014–2019 and 2019–2024	2 terms
9.	M. Guntur Hamzah	2022–2035	Active
10.	Arsul Sani	2024–2034	Active

[10] https://www.mkri.id/hakim/hakim-konstitusi dan https://www.mkri.id/hakim/hakim-periode-sebelumnya diakses pada 20 April 2026

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No	Judge's Name	Term of Office	Status
11.	Adies Kadir	2026–2038	Active

Source: Data processed by the author from the website of the Constitutional Court of the Republic of Indonesia

2. Normative shortcomings in the mechanism by which the House of Representatives appoints Constitutional Court justices, which have the potential to undermine transparency, participation, independence, and the integrity of Constitutional Court justices

From the perspective of administrative law, the broad scope of authority held by the Constitutional Court requires that the process of appointing constitutional judges be conducted in accordance with the principles of transparency, public participation, objectivity, and accountability. The application of these principles is part of the implementation of the general principles of good governance, which form the foundation for the exercise of state power in a manner that is democratic, transparent, and characterized by integrity.

The general principles of good governance essentially serve as a bridge between legal norms and ethical values in the administration of government. These principles consist of both written and unwritten rules and serve as the foundation for building good governance, both in terms of the system and its implementation. Fundamentally, granting the state administration the authority to act freely in carrying out its duties and functions has the potential to lead to actions that conflict with applicable laws, thereby harming the public. Therefore, the existence of the principles of good governance is essential as both a guide and a constraint on the exercise of state administrative authority to prevent abuse or overreach of authority.[11]

In the selection process for Constitutional Court justices, there are two general principles of good governance that are explicitly required to be applied: the principles of transparency and public participation. These provisions are set forth in Articles 19 and 20 of the Constitutional Court Law, which stipulate that the nomination and selection process for constitutional judges must be conducted transparently, involve public participation, be objective, and be accountable to the public.

[11] Mhd. Fakhrurrahman Arif, Asas-Asas Umum Pemerintahan yang Baik, Siyasah: Jurnal Hukum Tata Negara, Volume 6, 2023, hlm 55-56

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The principles of transparency and public participation in the selection process for constitutional judges, as affirmed in Article 19 of the Constitutional Court Law, are non-negotiable prerequisites. The Explanatory Notes to Article 19 of the Constitutional Court Law clarify the meaning of transparency and participation by providing a comprehensive definition: the names of constitutional judge candidates are announced through various mass media to provide an opportunity for the public to submit input or feedback regarding the relevant candidates. This means the public has the right to know who the candidates are for the constitutional judge positions and how their integrity and capacity are assessed. Without transparency and public participation, the selection process risks becoming an arena for elite compromise, which ultimately reduces the Constitutional Court from a "guardian of the constitution" to merely a contesting arena of interests.

The principles of transparency and participation are often treated merely as a formality rather than being effectively applied in the selection process for constitutional judges when filling vacancies with candidates nominated by the House of Representatives; this is evident in the selection process for a replacement for Constitutional Judge Arief Hidayat, who will reach retirement age on February 3, 2026.

Inosentius Samsul, former Head of the House of Representatives' Expert Committee, was unable to assume the position of constitutional judge as Arief Hidayat's replacement. His position was subsequently filled by Adies Kadir, a member of the House of Representatives from the Golkar Party faction, who was nominated by the House as a candidate for constitutional judge during a plenary session on January 27, 2026. Previously, Inosentius had already been designated as a candidate for constitutional judge by the House of Representatives based on a decision made during a plenary session on August 21, 2025. However, just nine days before Arief Hidayat's term ended and prior to the inauguration, his position was taken over by Adies Kadir. In fact, preparations for Inosentius's inauguration were already underway, including the production of a profile video by the Constitutional Court's public relations team as part of the tradition of the farewell and welcome ceremony for constitutional judges at the Constitutional Court.[12]

[12] https://www.kompas.id/artikel/sebelum-inosentius-ditikung-adies-rajin-hadir-di-acara-mk-hingga-membuat-video-profil yang termuat pada E-PAPER PERPUSTAKAAN DPR-RI http://epaper.dpr.go.id diakses pada 2 Mei 2026

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Normatively, Article 23(1)(c) of the Constitutional Court Law stipulates that constitutional judges shall be honorably dismissed upon reaching the retirement age of 70. To prevent vacancies, Article 26 of the of the Constitutional Court Act stipulates that the Constitutional Court is obligated to notify the nominating body no later than 6 (six) months before the end of the term of office, and the nominating body is obligated to submit a candidate for replacement to the President no later than 30 (thirty) working days from the receipt of such notification. This provision indicates that the mechanism for replacing constitutional judges should be carried out in a planned manner and with procedural certainty.

The House of Representatives' decision to overturn the results of the plenary session regarding the nomination of Inosentius Samsul as a candidate for constitutional judge and subsequently to nominate Adies Kadir through the same plenary session has drawn sharp criticism from various quarters. This move is seen as indicative of serious problems in the selection mechanism for state officials, particularly the fit-and-proper test conducted by the House of Representatives. Senior Researcher at Formappi, Lucius Karus, questioned the binding nature of the DPR's decision if the results of a plenary session can be easily overturned by the same plenary session. This controversy is not merely about the problematic process that led to Adies Kadir being nominated as the DPR's proposed Constitutional Court judge, but also reflects the DPR's tendency to easily overturn decisions it has made itself. Lucius believes this issue underscores the urgent need for DPR reform, particularly regarding the selection mechanism for state officials. He highlighted the fit and proper test practices long carried out by the DPR, particularly in Commission III, which often lose their selection significance because they are limited to a single candidate.[13]

Judges selected through a non-transparent process inevitably raise doubts about their independence and integrity, which ultimately undermines public trust in the constitutional court. Conversely, a selection process conducted transparently and based on merit will produce judges of integrity who are capable of upholding the dignity of the constitution. This issue becomes all the more critical because the integrity of constitutional judges impacts not only the quality of rulings but also the legitimacy of the Constitutional Court in the public eye.

[13] https://www.hukumonline.com/berita/a/seleksi-hakim-mk-bermasalah--dpr-diminta-rombak-proses-uji-kelayakan-pemilihan-pejabat-publik-lt697dbeae32c12/?page=1 diakses pada 5 Mei 2026

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In addition to undermining public confidence in the constitutional court, the author believes there is a risk that the selected candidates may not meet the criteria set forth in the Constitution of the Republic of Indonesia for constitutional judges—namely, that they possess integrity and good character, uphold fairness, demonstrate a spirit of statesmanship, and possess a deep understanding of the Constitution and the system of government.

It is important to strengthen the principles of transparency and public participation in the process of selecting candidates for constitutional judges. The publication of candidate profiles should be conducted through print and electronic media to provide the public with an opportunity to offer input on the candidates in question. This is essential to prevent the selection of constitutional judges who may, in the future, commit violations of either ethical standards or applicable regulations.

The normative shortcomings in the mechanism for selecting Constitutional Court justices by the House of Representatives are evident in the absence of detailed regulations regarding the implementation of the principles of transparency, public participation, objectivity, and accountability, as mandated by Articles 19 and 20 of the Constitutional Court Law. These provisions essentially only affirm normative obligations without being accompanied by clear parameters, technical procedures, or oversight mechanisms for their implementation. Consequently, the principles of transparency and public participation tend to remain at the level of mere administrative formalities and have not yet fully become substantive instruments in determining the quality of Constitutional Court judge candidates. This situation is further exacerbated by the absence of specific provisions in House of Representatives Regulation No. 1 of 2020 that comprehensively govern the stages of the constitutional judge selection process, ranging from candidate screening mechanisms, transparency regarding candidates' track records, the submission of public input, to evaluation standards based on a merit system. These still-general provisions leave significant room for political considerations to dominate the constitutional judge selection process.

This issue is reflected in the controversy surrounding the replacement of Inosentius Samsul with Adies Kadir as the House of Representatives' nominee for constitutional judge in January 2026. The replacement, which took place just before the swearing-in ceremony, highlights the lack of procedural certainty and transparency in political decision-making within the House of Representatives. In fact, normatively, the Constitutional Court Law has

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established a mechanism for the planned replacement of constitutional judges through a six-month notice prior to the end of their term and the obligation to submit a replacement candidate within a specified timeframe. However, in practice, a decision previously adopted in a plenary session can be overturned in the subsequent plenary session without a fully transparent explanation to the public. This situation gives the impression that the fit and proper test mechanism has not been genuinely implemented as a competency- and integrity-based selection tool, but is instead more influenced by the configuration of political interests within the DPR. Criticism from various quarters regarding this process indicates a crisis of accountability in the mechanism for selecting state officials, particularly regarding the consistency and legitimacy of the DPR's institutional decisions in determining candidates for constitutional judges.

Weaknesses in the regulatory framework, coupled with a selection process for Constitutional Court justices that is not yet fully transparent, have the potential to seriously undermine the independence and integrity of constitutional justices and erode public trust in the Constitutional Court as the guardian of the Constitution. A selection process that is closed and lacks public participation can create the perception that constitutional judges are more aligned with the political interests of the nominating institutions than with their commitment to the constitution, the rule of law, and the values of justice. Such conditions are certainly detrimental to the Constitutional Court's legitimacy, as the quality of the constitutional court's rulings depends heavily on the independence and integrity of its judges.

These concerns are not unfounded, given that in Indonesia's constitutional practice, several constitutional judges nominated by the House of Representatives have been implicated in ethical violations and acts of corruption. The corruption case involving Akil Mochtar, related to bribery in a regional head election dispute, and the ethical violation by M. Guntur Hamzah demonstrate that the selection process for constitutional judges has not yet been fully capable of ensuring the appointment of judges who possess integrity and are free from ethical or legal issues. This fact serves as an indicator that a selection mechanism that is not optimally merit-based has the potential to produce constitutional judges who do not fully meet the standards of morality, professionalism, and statesmanship as mandated by the constitution.

Based on the author's analysis of data from various sources, at least three constitutional judges nominated by the Indonesian House of Representatives have been

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recorded as having committed violations, whether in the form of corruption or ethical violations, as shown in Table 2.

Table 2. Constitutional Court Justices Based on the Indonesian House of Representatives' Recommendations Who Have Committed Violations

No	Name	Type of Violation	Source
1.	Akil Mochtar	Criminal (Corruption)	Supreme Court Decision No. 336 K/Pid.Sus/2015 https://jdih.ppatk.go.id/produk-hukum/detail/749/MA336KPidSus2015
2.	M. Guntur Hamzah	Ethical Violations	Decision of the Honorary Council of the Constitutional Court No. 1/MKMK/T/02/2023 https://www.mkri.id/public/content/mkmk/Putusan_mkmk_4_610_230320065355.pdf

Source: Author's analysis of Supreme Court rulings and decisions of the Constitutional Court's Honorary Council

The data highlights the importance of reforming the selection process for constitutional judges to make it more transparent, participatory, objective, and accountable, in order to strengthen the institutional quality of the Constitutional Court and uphold the integrity of the constitutional judiciary in Indonesia.

3. Reformulating the ideal mechanism for the House of Representatives to fill Constitutional Court judge positions based on strengthening the principles of transparency and participation in accordance with the Law on the Constitutional Court of the Republic of Indonesia from a Good Governance Perspective

According to the United Nations Development Programme (UNDP) in 1997, the concept of good governance is measured through nine key indicators: public participation, rule

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of law, transparency, responsiveness, consensus-building, fairness, efficiency and effectiveness, accountability, and strategic vision in governance.[14]

Public information transparency is an essential element in the administration of the rule of law and constitutional democracy because it not only serves to fulfill the public's right to access information but also acts as a mechanism for oversight of the exercise of authority by state institutions. Transparency in the exercise of power is a vital component in building good governance, enhancing the accountability of state institutions, strengthening public participation, and preventing the abuse of power, corrupt practices, and the dominance of specific political interests.

From the perspective of good governance, strengthening the principles of transparency and participation is a key aspect of the mechanism for appointing constitutional judges, in order to ensure a selection process that is objective, accountable, and free from political interference.

In addition, reformulating the selection mechanism for constitutional judges is necessary to create a merit-based selection system that prioritizes integrity, professionalism, constitutional expertise, independence, and ethical track record as key indicators in the evaluation of candidates for the Constitutional Court. Therefore, the Indonesian House of Representatives (DPR RI) needs to establish specific regulations regarding a more comprehensive procedure for the selection of constitutional judges in a DPR Regulation as a normative foundation to strengthen the principles of transparency and participation in the selection process for constitutional judges. The strengthening of these principles of transparency and participation can be achieved through:

1. Implementation of an open recruitment mechanism through official announcements regarding the schedule, stages, requirements, and procedures for the selection of constitutional court justice nominees, widely disseminated through the mass media and the DPR RI's digital platforms.
2. Strengthening public participation by providing opportunities for the public, academics, legal professional organizations, and civil society organizations to provide input, evaluations, or objections regarding constitutional court justice nominees

[14] Khairudin, Soewito, dan Aminah, 2021, Potret Kepercayaan Publik, Good Governance dan E-Government Di Indonesia, CV. Amerta Media, Banyumas, Hlm 20

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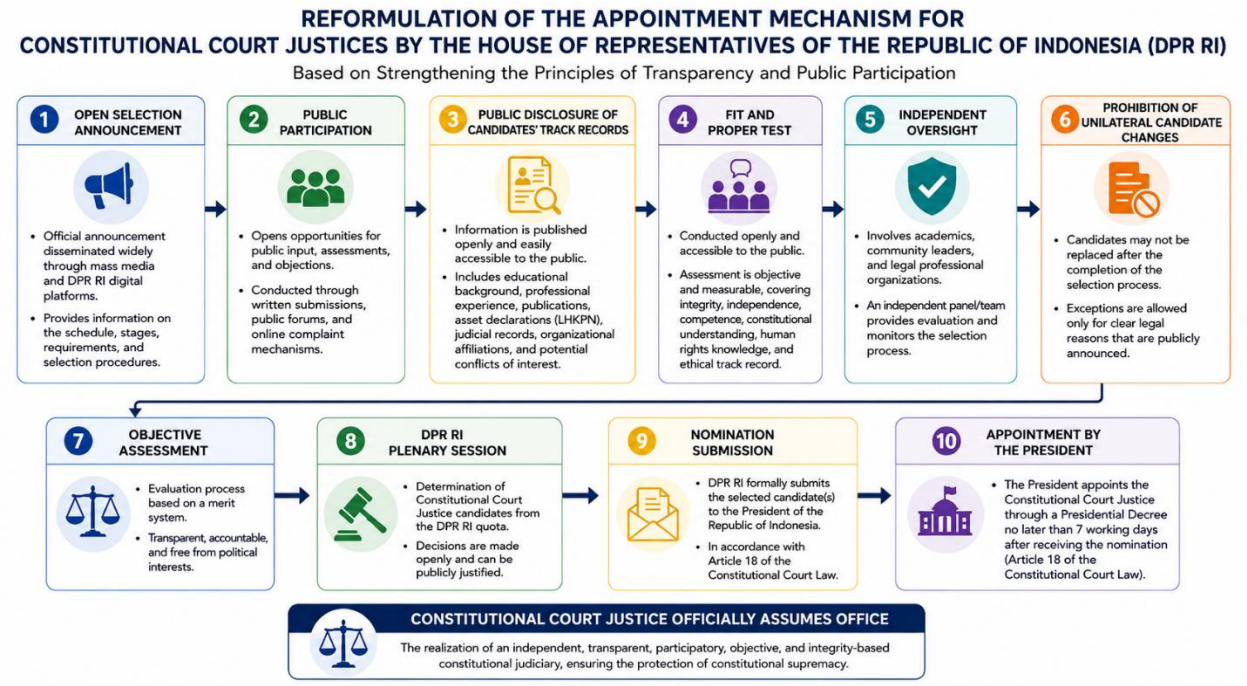
3. Transparency regarding the track records of constitutional judge candidates, including educational background, professional experience, scholarly works, asset disclosure reports, ethical track records, and potential conflicts of interest.
4. Conducting open fitness-and-propriety tests accompanied by objective and measurable evaluation criteria based on the merit system principle
5. Establishment of an independent oversight mechanism through the involvement of academics, community leaders, and legal professional organizations to oversee the constitutional judge selection process.
6. Regulation prohibiting unilateral changes to candidates after the selection process has been completed, except for clear legal reasons that can be publicly accounted for.

Thus, reformulating the mechanism for filling Constitutional Court judge positions by reinforcing the principles of transparency and participation is a crucial step in strengthening the independence and integrity of constitutional judges and upholding the Constitutional Court's legitimacy as the guardian of the constitution.

Figure 1. Diagram of the Reformulation of the Mechanism for Selecting Constitutional Court Justices by the House of Representatives, with an Emphasis on the Principles of Transparency and Public Participation



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CONCLUSION

1. The regulations governing the selection mechanism for Constitutional Court justices have essentially affirmed the principles of transparency, public participation, objectivity, and accountability in accordance with the provisions of Articles 19 and 20 of the Constitutional Court Law. However, these regulations remain general in nature and have not been accompanied by clear technical mechanisms or measurable parameters in House of Representatives Regulation No. 1 of 2020 on Rules of Procedure.
2. Normative weaknesses in the mechanism for selecting constitutional judges by the House of Representatives have the potential to lead to the dominance of political interests, weak public participation, and a lack of transparency in the decision-making process. These conditions could undermine the independence and integrity of constitutional judges and erode public trust in the Constitutional Court as the guardian of the Constitution.
3. The mechanism for the House of Representatives to appoint judges to the Constitutional Court needs to be reformed by strengthening the principles of transparency and public participation, including through open selection processes, the publication of candidates' track records, the involvement of the public and academics, public oversight mechanisms, and an objective and accountable evaluation system. Such strengthening is essential to ensure that constitutional judges are independent, possess integrity, and are capable of upholding the dignity of the Constitution and maintaining public trust in the Constitutional Court.

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