

INSTITUTIONAL DESIGN OF AN EXTERNAL OVERSIGHT BODY FOR THE CODE OF ETHICS OF CONSTITUTIONAL JUSTICES: AN INTEGRATED OVERSIGHT MODEL FROM THE PERSPECTIVE OF CHECKS AND BALANCES

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Abstract

The internal ethics oversight mechanism of the Indonesian Constitutional Court through the Honorary Council (MKMK) has proven ineffective. Dominated by active judges, it violates the *nemo iudex in causa sua* principle, leading to structural conflicts of interest and lenient sanctions for severe ethical violations. This research aims to analyze the current existence of the Constitutional Court's ethics oversight body and formulate a new institutional design for an external oversight body based on the Integrated Oversight Model (IOM) and checks and balances perspective. This study employs a normative legal research method using statute, conceptual, and case approaches. The findings reveal that MKMK fails to meet the sociological indicators of an ideal institution, acting more as an internal protector than an objective oversight body. To resolve this, the study proposes applying the IOM, which requires returning the constitutional mandate of external oversight fully to the Judicial Commission (KY) as a unified hub. Furthermore, drawing comparative lessons from South Africa's Judicial Service Commission, the checks and balances principle is



integrated by dividing the impeachment authority: the KY acts as the investigative tribunal, while the House of Representatives (DPR) serves as the political decision-maker. In conclusion, the exclusive authority of MKMK must be revoked. Establishing a permanent ethics council under the KY, without active constitutional judges, is highly recommended to guarantee true independence and public accountability.

KEYWORDS

Constitutional Court; Ethics Oversight; Integrated Oversight Model; Judicial Commission; Checks and Balances.

Introduction

The constitutional design of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) following the third amendment fundamentally established an integrated oversight system based on the principle of the balance of power. Article 24B paragraph (1) of the 1945 Constitution explicitly grants the Judicial Commission the authority to maintain and uphold the honor and conduct of judges in general, without differentiating the types of judges.¹ This legal construction shifted when the Constitutional Court, through Decision Number 005/PUU-IV/2006, interpreted that the phrase "judge" within the Judicial Commission's authority does not include constitutional justices.² This final and binding decision directly resulted in the weakening of external oversight over the Constitutional Court.

Consequently, the oversight of constitutional justices was shifted entirely to an internal mechanism through the Ethics Council, which later evolved into the Constitutional Court Honorary Council (*Majelis Kehormatan Mahkamah Konstitusi* or MKMK), as stipulated in Article 27A

¹ RI, "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Dalam Satu Naskah," 1945, 1–28, <https://peraturan.bpk.go.id/Home/Details/101646/uud-no-->.

² Muhammad Hasan Basri, "Implikasi Putusan Mahkamah Konstitusi Terhadap Komisi Yudisial Dalam Pengawasan Etik Hakim: Studi Kasus Putusan Mahkamah Konstitusi 005/PUU-IV/2006," *Lex Renaissance* 6, no. 3 (2021): 520–37.

paragraph (2) of the Constitutional Court Law.³ This situation was further reinforced when Constitutional Court Decision Number 56/PUU-XX/2022 annulled the Judicial Commission's involvement in the membership of the MKMK.⁴ Thus, the ethical oversight of constitutional justices now resides entirely within the internal domain of the Constitutional Court, without the involvement of external overseers.⁵

The Constitutional Court of the Republic of Indonesia was established during the Reformation era as the guardian of the constitution, possessing final and binding authority in reviewing laws against the 1945 Constitution. Its establishment was rooted in the spirit of modern constitutionalism, which demands judicial oversight mechanisms to prevent the abuse of power by both the parliament and the government. The regulatory trajectory of the Constitutional Court through various legislative amendments—ranging from Law Number 24 of 2003, Law Number 8 of 2011, and Government Regulation in Lieu of Law (*Perppu*) Number 1 of 2013 (which was subsequently enacted as Law Number 4 of 2014), to Law Number 7 of 2020—demonstrates strong legal-political dynamics that are heavily laden with vested interests.⁶

The dominance of this inherently closed internal oversight system has engendered various highly destructive institutional pathologies, primarily manifesting as the ineffectiveness of the oversight system and the reinforcement of the corps solidarity phenomenon, sociologically known as *esprit de corps*.⁷ Numerous socio-legal discussions in Indonesia indicate

³ Presiden DPR, "UNDANG-UNDANG REPUBLIK INDONESIA NOMOR 7 TAHUN 2020 TENTANG Perubahan Ketiga UU No 24 Tahun 2003," *Bpk.Go.Id*, no. 037856 (2020), <https://peraturan.bpk.go.id/Home/Details/147335/uu-no-7-tahun-2020>.

⁴ Mahkamah Konstitusi Republik Indonesia, *Putusan Mahkamah Konstitusi Nomor 56/PUU-XX/2022*, 2022.

⁵ Rasji, Lila Graciella Yuwono, and Meiliani, "Kewenangan Komisi Yudisial Dalam Pengawasan Hakim: Analisis Terhadap Putusan MK No. 005/PUU-IV/2006," *Jurnal ISO: Jurnal Ilmu Sosial, Politik Dan Humaniora* 5, no. 1 (2025): 10, <https://doi.org/10.53697/iso.v5i1.2369>.

⁶ "Jejak Sejarah Revisi UU MK," accessed March 10, 2026, <https://perpustakaan.dpr.go.id/epaper/index/popup/id/20137>.

⁷ Al Amin Syayidin Ali Mustopa, "Pelaksanaan Sistem Pengawasan Hakim Konstitusi Di Indonesia," *Jurnal Konstitusi & Demokrasi* 2, no. 2 (2022): 4.

that the MKMK is highly susceptible to conflicts of interest when its members are required to adjudicate actively serving fellow constitutional justices, given the close proximity and professional relationships among them.

The most glaring example of this problem was evident in the handling of the gross ethical violation case involving the former Chief Justice of the Constitutional Court, Anwar Usman. Although the individual was proven legally and convincingly to have violated the principles of propriety and decorum—which constitute the core of judicial ethics—the MKMK merely imposed administrative sanctions comprising removal from the structural position of Chief Justice and a written reprimand, rather than penalizing him with the maximum sanction of dishonorable dismissal. This decision, perceived as excessively lenient and compromising, stands as a monument to the MKMK's failure to establish a deterrent effect for the guardians of the constitution.⁸

This institutional dysfunction was further confirmed when the sanction failed to mitigate the personal resistance of the offender, who instead retaliated against the ethical ruling by maneuvering to file a lawsuit in the State Administrative Court (PTUN) as a form of open defiance against his removal. A similarly explicit situation occurred in the scandal involving the alteration of a decision's substance by Constitutional Justice Guntur Hamzah, where the manipulation of judicial documents—which fundamentally undermines the essence of judicial integrity—was once again merely penalized with an exceedingly light administrative sanction of a written reprimand.⁹ This recurring and compromising pattern of imposing sanctions clearly reflects strong institutional primordial ties that systematically prioritize the protection of the corps' dignity and harmony

⁸ Alya Dwi Ananta et al., "EVALUASI MEKANISME PENGAWASAN MAHKAMAH KONSTITUSI TERHADAP KEKUASAAN KEHAKIMAN: TINJAUAN DARI PERSPEKTIF HUKUM TATA NEGARA," *Jurnal Multidisiplin Ilmu Akademik* 1, no. 3 (2024): 435–46.

⁹ Ahmad Rizal, Rommy Patra, and Edy Suasono, "Efisiensi Pengawasan Internal Terhadap Mahkamah Konstitusi Oleh Majelis Kehormatan Mahkamah Konstitusi," *Tanjungpura Legal Review* 2, no. 2 (2024).

over the urgency of enforcing substantive justice and the broader public's moral expectations.¹⁰

Efforts to overcome the systemic impasse in the oversight of judicial institutions can be pursued through a comparative approach by adopting the Integrated Oversight Model (IOM) as an innovative framework for redesigning the oversight architecture of state institutions. When the principles of the IOM are integrated with the concept of checks and balances, the institutional design of judicial oversight can be fortified to ensure that no organ of power is exempt from public accountability. Best practices from other countries, such as South Africa, demonstrate that the existence of an external body like the Judicial Service Commission (JSC), which oversees the justices of the Constitutional Court, is capable of preventing potential abuses of power without compromising judicial independence.¹¹

Given the widespread institutional pathologies resulting from an internal oversight system prone to conflicts of interest and the strengthening phenomenon of esprit de corps, reforming the ethical oversight design has become a pressing urgency to restore public trust and prevent the arbitrary exercise of power. Based on the aforementioned rationale, this research will address two primary research questions, namely: (i) what is the current existence of the oversight body for the constitutional justices' code of ethics in Indonesia?; and (ii) how should the institutional design of an external oversight body for the constitutional justices' code of ethics be formulated, based on the Integrated Oversight Model from the perspective of the checks and balances principle?

¹⁰ Himawan Achmad Sarif and Sunny Ummul Firdaus, "Pengaturan Fungsi Pengawasan Internal Terhadap Hakim Konstitusi Sebagai Upaya Mewujudkan Kekuasaan Kehakiman Yang Merdeka (Studi Putusan Mahkamah Konstitusi Nomor 1-2/PUU-XII/2014)," *Res Publica: Jurnal Hukum Kebijakan Publik* 2, no. 1 (2018): 53–69.

¹¹ Emmanuella Osagioduwa and Edo State, "Strategic Contract Oversight for Sustainable Infrastructure Development Across Nationally Significant Construction Sectors," *International Journal of Computer Applications Technology and Research* 08, no. 12 (2025): 516–31, <https://doi.org/10.7753/ijcatr0812.1009>.

Methods

This study employs a normative legal research methodology, which fundamentally focuses on the examination of legal principles, doctrines, universal principles, and the systematization of positive legal norms to discover a prescriptive truth regarding the institutional vacuum of the Constitutional Court's external oversight body. This is conducted by implementing a comprehensive integration of three approaches: first, the statute approach, to precisely trace the trajectory of the Constitutional Court Law revisions alongside the textual interpretation of the 1945 Constitution; second, the conceptual approach, to further dissect the theoretical substance of checks and balances and the Integrated Oversight Model; and third, the case approach, to explore the application of jurisprudential precedents concerning both judicial scandals in Indonesia and the resolution of judicial conflicts in South Africa.¹²

The data collection process relies entirely on the exploration of primary legal materials, encompassing the hierarchy of constitutional regulations and judicial decisions. This is supported in parallel by a foundation of secondary legal materials, consisting of legal literature, reputable national and international journals, and authoritative comparative documents, extensively gathered through library research. All collected legal materials are initially evaluated for their validity through a mechanism of theoretical triangulation. Subsequently, these materials are analyzed using a descriptive-analytical model to systematize, interpret, and assess the conformity of legal norms with empirical realities. In the concluding phase, the findings are presented in a structured and precise deductive argumentative narrative, thereby directly yielding recommendations for reforming the state's judicial governance design.¹³

¹² Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Prenada Media, 2017).

¹³ Marzuki.

Result and Discussion

Prior research concerning the ethical oversight of constitutional justices has predominantly focused on normative critiques and evaluations of the currently prevailing authority. Basri (2021) and Rizal et al. (2024) highlight the historical loss of the Judicial Commission's role and the weakness of the MKMK's internal oversight.¹⁴ This situation is further compounded by the findings of Amirullah & Yunaldi (2024) regarding the violation of the *nemo judex in causa sua* principle,¹⁵ which subsequently prompted Sibarani & Hutahean (2024) as well as Ananta et al. (2024) to advocate for the restoration of external oversight.¹⁶ To address this research gap, this study offers prescriptive novelty through the application of the Integrated Oversight Model (IOM) and a comparative analysis with South Africa's Judicial Service Commission, aiming to establish a proportional oversight system based on the principle of checks and balances.

1. Institutional Existence of Constitutional Judicial Ethics Oversight in Indonesia

a) Historical Trajectory of External Oversight for Constitutional Justices in Indonesia

The establishment of the Judicial Commission in the Third Amendment to the 1945 Constitution by the constitutional framers (*original intent*) was fundamentally intended to respond to past crises in judicial integrity. The primary objective behind situating this institution within the Chapter on Judicial Power, specifically Article 24B, was to establish an independent

¹⁴ Basri, "Implikasi Putusan Mahkamah Konstitusi Terhadap Komisi Yudisial Dalam Pengawasan Etik Hakim: Studi Kasus Putusan Mahkamah Konstitusi 005/PUU-IV/2006."

¹⁵ Imron Amirullah and Wendra Yunaldi, "KAJIAN HUKUM TERHADAP ASAS NEMO JUDEX IN CAUSA SUA STUDI PUTUSAN MAHKAMAH KONSTITUSI NOMOR 90/PUU-XXI/2023.," *PALAR (Pakuan Law Review)* 10, no. 4 (2024): 37–49.

¹⁶ Mery R L Sibarani and Armunanto Hutahean, "Urgensi Pengawasan Eksternal Hakim Mahkamah Konstitusi Dalam Pengujian Undang-Undang Berdasarkan Kekuasaan Kehakiman Menurut Uud Nri 1945," *Honeste Vivere* 34, no. 1 (2024): 120–36.

external oversight authority to rehabilitate the Indonesian legal ecosystem from the deeply entrenched pathologies of corruption, collusion, and nepotism. In other words, the Judicial Commission was founded in the interest of upholding the honor, noble dignity, and conduct of all judges universally. This noble intention was subsequently materialized through Law Number 24 of 2003 concerning the Constitutional Court, which in its nascent stages successfully designed a composite and balanced oversight structure, wherein the institution's internal oversight mechanisms and the external oversight by the Judicial Commission could operate concomitantly and harmoniously without negating one another.¹⁷

This harmonious normative arrangement between internal and external oversight was ultimately dismantled following the Constitutional Court's issuance of Decision Number 005/PUU-IV/2006. Through this ruling, the Constitutional Court unilaterally annulled the Judicial Commission's constitutional authority to oversee constitutional justices. This annulment was predicated on the Court's interpretative argument, which claimed that constitutional justices do not fall under the general terminology of "judges" as intended in Article 24B of the 1945 Constitution, but rather constitute an independent and distinct state organ entity. This judicial maneuver, which dramatically severed the chain of external oversight, not only triggered a wave of criticism regarding double standards in interpreting judicial independence but also created a legal vacuum. Ultimately, this compelled the ethical oversight system for constitutional justices to shift into a highly exclusive and closed internal mechanism.¹⁸

This judicial argument triggered a wave of fierce criticism from academics, legal practitioners, and civil society, who argued that the

¹⁷ Tri Cahya Indra Permana, "Eksistensi Dan Peran Komisi Yudisial: Pengkajian Konteks Filosofi, Sejarah Dan Tujuan Pembentukannya Dalam Dinamika Ketatanegaraan Indonesia," *Jurnal Hukum Dan Peradilan* 3, no. 1 (2014): 85–100.

¹⁸ Sarif and Firdaus, "Pengaturan Fungsi Pengawasan Internal Terhadap Hakim Konstitusi Sebagai Upaya Mewujudkan Kekuasaan Kehakiman Yang Merdeka (Studi Putusan Mahkamah Konstitusi Nomor 1-2/PUU-XII/2014)."

Constitutional Court had employed a "double standard" in interpreting the terminology of institutional independence.¹⁹ In one dimension, the Constitutional Court aggressively refused to be evaluated by an autonomous and independent institution of the Judicial Commission's caliber under the pretext of avoiding institutional conflicts and safeguarding the dignity of its independence. Yet, in the opposing dimension, the Court unreservedly allowed statutory regulations that permit the recruitment and nomination process of constitutional justices to be conducted by purely political entities heavily fraught with conflicts of interest—namely the House of Representatives (DPR) and the President—even though both institutions are parties that constantly act as petitioners or respondents in judicial review disputes before the Court.²⁰

Following the ruling that caused profound upheaval within the constitutional system, the ensuing legal vacuum was temporarily filled by internal regulations, such as the Constitutional Court Regulation (PMK) that established the Ethics Council.²¹ Attempts were subsequently made to legitimize this structure through various statutory revisions, including Government Regulation in Lieu of Law (*Perppu*) Number 1 of 2013 following the arrest case of Chief Justice Akil Mochtar, and Law Number 4 of 2014, which ultimately positioned the Constitutional Court Honorary Council (MKMK) as a permanent institution through the revision in Law Number 7 of 2020. Despite being legally institutionalized, the effectiveness of the MKMK continues to be questioned by the public. A juridical evaluation of the MKMK's structure reveals a fundamental flaw, as its membership still includes active constitutional justices. This clearly violates the fundamental universal judicial principle of *nemo iudex in causa sua*,

¹⁹ Basri, "Implikasi Putusan Mahkamah Konstitusi Terhadap Komisi Yudisial Dalam Pengawasan Etik Hakim: Studi Kasus Putusan Mahkamah Konstitusi 005/PUU-IV/2006."

²⁰ Samuel Walangitan, "Independensi Mahkamah Konstitusi Di Tengah Tekanan Politik," *Indonesia of Journal Business Law* 4, no. 2 (2025): 45–56, <https://doi.org/10.47709/ijbl.v4i2.6596>.

²¹ Edo Maranata Tambunan et al., "Analisis Eksistensi Etika Hakim Mahkamah Konstitusi Dalam Mewujudkan Peradilan Berintegritas Dan Akuntabel (Putusan Mk No. 90/Puu-Xxi/2023)," *Iblam Law Review* 4, no. 2 (2024): 50–61.

which dictates that no one should be a judge in their own case or for their own group. In practice, the violation of this principle is evident in the imposition of sanctions that are compromising, weak, and excessively tolerant toward various indications of gross ethical violations committed by fellow justices.²²

TABLE 1. Historical Trajectory of the Judicial Commission's Oversight over Constitutional Justices

Legal Basis	Constitutional Dynamics	Status of Judicial Commission (KY) Authority
1945 Constitution (Article 24B) & Law No. 24 of 2003	The initial formation of a composite and balanced judicial oversight system.	KY possessed the constitutional authority to conduct external oversight over the conduct of constitutional justices.
Constitutional Court Decision No. 005/PUU-IV/2006	The Court interpreted that the term "judge" (hakim) within the oversight mandate did not include constitutional justices.	KY's oversight authority was unilaterally annulled, triggering a vacuum in external oversight.
Perppu No. 1 of 2013 to Law No. 7 of 2020	Efforts to address the legal vacuum through regulations that led to the permanent	KY was replaced as ethical oversight was shifted entirely to the Constitutional Court's internal mechanism.

²² Elshahra Elshahra, "Mekanisme Hukum Penerapan Sanksi Etik Oleh Majelis Kehormatan Hakim Konstitusi (MKMK) Dalam Mengadili Pelanggaran Etik Hakim Konsitusi" (IAIN Parepare, 2025).

institutionalization of the MKMK.		
Constitutional Court Decision No. 56/PUU-XX/2022	The Court invalidated the involvement of Judicial Commission members within the MKMK structure.	Access to external oversight was fully severed; ethical oversight became exclusive to the internal domain.

Source: Author's Analysis (2026)

The development of the oversight system for constitutional justices in Indonesia indicates a regression from an initially transparent design based on the separation of powers to a closed internal oversight system. The Constitutional Court has systematically severed external oversight mechanisms, replacing them with internal regulations that gave rise to the MKMK. Because it is established through internal mechanisms and inherently involves the constitutional justices themselves, the MKMK is highly susceptible to conflicts of interest and the influence of collegial solidarity. Therefore, the existence of this institution warrants more rigorous scrutiny. This is essential to objectively assess whether the MKMK is genuinely capable of functioning as the custodian of the constitutional justices' integrity and ethics.

b) Analyzing the MKMK through the Perspective of Philip Selznick's Institutionalization Theory

This research specifically adopts and applies Philip Selznick's indicators of institutional existence to gain a comprehensive, philosophical, and sociological understanding of why the MKMK consistently fails to function optimally. According to Selznick's theoretical framework, a set of operational procedures and a bureaucratic hierarchy do not automatically gain recognition or transform into an "institution" merely by virtue of being

established under the legitimacy of a piece of legislation. The process of institutionalization is a naturally occurring adaptive and transformative process in which a bureaucratic organization must evolve from a mere technical-mechanical instrument designed to resolve administrative matters, into a respected and adhered-to organic community possessing a moral essence that is deeply embedded in the cognitive structures of its members.²³

The institutional existence of an oversight board, when evaluated through Philip Selznick's sociological perspective, must be assessed against several key indicators that reflect its degree of institutionalization. These indicators include: (1) Infusion with Value, (2) Distinctive Character, (3) Defense of Institutional Integrity, (4) Reduction of Arbitrariness, and (5) Social Legitimacy. These five indicators are further elucidated as follows:

1) *Infusion with Value*

The most central parameter indicating the success of the institutionalization process, according to Selznick, is the extent to which the organization successfully undergoes an *infusion with value beyond the technical requirements of the task at hand* (an infusion of noble values that substantially transcends the mere fulfillment of the technical-administrative requirements of its mandated tasks). An organization that is successfully infused with noble values will be viewed and trusted by all stakeholders as the embodiment of the highest moral ideals (*logic of appropriateness*), rather than merely perceived as a technical instrument that can be dismantled, manipulated, or exploited to suit the fluctuating pragmatic appetites of power (*expendable tool*).²⁴

²³ Lindsay Mayka, ed., "Theoretical Framework: Participatory Institution Building through Sweeping Sectoral Reform and Policy Entrepreneurs," in *Building Participatory Institutions in Latin America: Reform Coalitions and Institutional Change* (Cambridge: Cambridge University Press, 2019), 37–73, <https://doi.org/DOI: 10.1017/9781108598927.002>.

²⁴ W Richard Scott, "The Adolescence of Theory Institutional," *Science* 32, no. 4 (1987): 493–511.

Upon empirical examination of the MKMK through this indicator, it can be concluded that the MKMK's existence remains trapped as a temporary and highly expendable instrument. Initially operating merely as an Ethics Council, its structure was highly fluctuating, frequently altering in accordance with the dynamics of prevailing Constitutional Court Regulations. Its establishment was more of a momentary defensive reaction to the recurring legitimacy crises that befell the Court, ranging from the red-handed arrest scandal of Akil Mochtar to the bribery case of Patrialis Akbar. The presence of the MKMK did not stem from a fundamental consciousness to fully subject the Court to the principles of constitutional accountability.²⁵ Consequently, the MKMK has yet to fulfill its ideal role as the institution's moral guardian. Its existence functions primarily to pacify temporary public outrage, rather than to enforce uncompromising ethical standards that transcend the Court's internal protective interests.²⁶ This condition starkly contradicts Selznick's notion of sociological leadership, which emphasizes that institutional administrators should be capable of balancing internal interests and collegial solidarity with a profound loyalty to the values of justice and the aspirations of the broader public.

2) *Distinctive Character*

This indicator emphasizes that an institution must be capable of demonstrating and maintaining its distinctive character to prevent it from being absorbed or influenced by the environment in which it operates. This distinctive character should be reflected in the existence of an honorary council that possesses autonomy, acts with impartiality, and maintains distinct boundaries from the judicial institution it oversees. Consequently, the oversight body must not be positioned in a manner that is too proximal to, or influenced by, the institution that serves as the object of its oversight.²⁷

²⁵ Mustopa, "Pelaksanaan Sistem Pengawasan Hakim Konstitusi Di Indonesia."

²⁶ Muhtadi Muhtadi, "Politik Hukum Pengawasan Hakim Konstitusi," *Fiat Justisia: Jurnal Ilmu Hukum* 9, no. 3 (2015).

²⁷ Martin Krygier, *Philip Selznick*, Philip Selznick, 2019, <https://doi.org/10.2307/j.ctvqsdm45>.

The membership composition of the MKMK, which in practice is dominated by internal elements of the Constitutional Court—even involving active constitutional justices in the decision-making process—results in the institution lacking psychological, social, and political distance from the institution it oversees. Due to the loss of this autonomous distinctive character, the MKMK is easily trapped within the phenomenon of corporate solidarity (*esprit de corps*). Its identity as an oversight body becomes conflated with the identity of the party being overseen, thereby giving rise to structural conflicts of interest. Under such conditions, the MKMK is unable to fully position itself as an objective examining body; instead, it appears more as an administrative extension that maintains sociological proximity among fellow justices within the Constitutional Court environment.²⁸

3) Defense of Institutional Integrity

Philip Selznick explains that the process of institutionalization also presents challenges of moral leadership. Organizational leaders are required to safeguard institutional integrity from various pressures, such as external influences, value deviations, unrealistic utopianism, and group pragmatism.²⁹ Selznick refers to this function as the defense of institutional integrity, which is the effort to maintain the core identity and values of the institution. An oversight body bears a moral responsibility to courageously take a firm stance in order to protect judicial integrity, even if such decisions risk unpopularity within internal circles or trigger resistance from its own group. Such a posture is necessary to ensure that judicial morality remains preserved in the eyes of the broader public.³⁰

²⁸ Idul Rishan, "Pelaksanaan Kebijakan Reformasi Peradilan Terhadap Pengelolaan Jabatan Hakim Setelah Perubahan Undang Undang Dasar 1945," *Jurnal Hukum Ius Quia Iustum* 26, no. 2 (2019): 259–81, <https://doi.org/10.20885/iustum.vol26.iss2.art3>.

²⁹ Krygier, *Philip Selznick*.

³⁰ Nevena Radoynovska, William Ocasio, and Oliver Laasch, "The Emerging Logic of Responsible Management: Institutional Pluralism, Leadership, and Strategizing," 2019, <https://doi.org/10.4337/9781788971966.00037>.

Empirical facts demonstrate that the MKMK often prioritizes maintaining internal harmony and protecting the career continuity of colleagues over taking the risk of upholding the values of propriety and substantive justice in the eyes of the public. This failure was evident when the MKMK handled the gross ethical violation case involving Anwar Usman. Despite valid and convincing evidence regarding the abuse of influence in Decision Number 90—which touched upon the core issues of impartiality and judicial ethics—the MKMK's ruling instead exhibited compromise.³¹

Rather than imposing the maximum sanction of Dishonorable Dismissal (PTDH), the MKMK merely issued a sanction in the form of removal from a structural position and a written reprimand. A similar pattern was observed in the case involving the alteration of a formal draft court decision by Justice Guntur Hamzah. Such an action, which can be categorized as judicial administrative manipulation, should have triggered more severe sanctions; however, it ultimately resulted only in a written reprimand. This series of decisions demonstrates that, in practice, the MKMK functions more to protect the prestige of specific individuals (*defense of individual prestige*) rather than fulfilling its primary function as the guardian of institutional legal integrity in a broader sense.

4) *Reduction of Arbitrariness*

Departing from the concept of the Rule of Law, Philip Selznick emphasizes that the institutionalization of legal mechanisms must be capable of gradually minimizing the space for the emergence of power abuses (progressive reduction of arbitrariness). Effective legal oversight demands a fundamental shift in decision-making processes. A leadership model characterized by wilfulness—where decisions are based on personal whims, inconsistency, and a lack of clear ethical guidelines—must be abandoned. Conversely, decision-making must be grounded in reasoned

³¹ Misbahul Munir, "LEGAL REASONING HAKIM MAHKAMAH KONSTITUSI TENTANG PENGGUNAAN ARTIFICIAL INTELLIGENCE (AI) DALAM KAMPANYE PEMILIHAN UMUM PERSPEKTIF HUKUM PROGRESIF (Studi Analisis Putusan Mahkamah Konstitusi Nomor 166/PUUXXI/2023)," 2023.

justification, which entails justifications based on rational reasoning, consistency, fairness, and logical accountability to the public.³²

In practice, the MKMK's proceedings have failed to reduce the potential for arbitrariness. On the contrary, such arbitrariness has re-emerged in a subtler form through judicial shielding. Sociological analysis indicates that this systematic failure stems from repeated violations of the universal legal principle of *nemo judex in causa sua*.³³ Due to the absence of clear jurisdictional boundaries, the lenient sanctions imposed by the MKMK have failed to produce a deterrent effect. This is evident from the fact that such sanctions are not even respected by the sanctioned parties. The violating subjects instead mounted resistance by filing lawsuits in the Administrative Court (PTUN) to contest their removal from office. This phenomenon further underscores the fundamental flaws in the MKMK's institutional design, which from its inception was established without adequate external oversight mechanisms.³⁴

5) Social Legitimacy

The pinnacle of Philip Selznick's thought, developed alongside Philippe Nonet in their work *Law and Society in Transition: Toward Responsive Law*, asserts that legal systems and judicial institutions must not remain stagnant at their initial stages of development. A legal system must continuously evolve from the "Repressive Law" stage, toward "Autonomous Law," and ultimately reach a more mature stage, namely "Responsive Law."³⁵ The primary characteristic of Responsive Law is its capacity to adapt to the needs and dynamics of society. Under this framework, the legal system is not merely fixated on rigid procedural rules but actively strives to seek justice that effectively resolves real-world societal issues, thereby

³² Krygier, *Philip Selznick*.

³³ Amirullah and Yunaldi, "KAJIAN HUKUM TERHADAP ASAS NEMO JUDEX IN CAUSA SUA STUDI PUTUSAN MAHKAMAH KONSTITUSI NOMOR 90/PUU-XXI/2023."

³⁴ Rizal, Patra, and Suasono, "Efisiensi Pengawasan Internal Terhadap Mahkamah Konstitusi Oleh Majelis Kehormatan Mahkamah Konstitusi."

³⁵ Krygier, *Philip Selznick*.

gaining social legitimacy. In Selznick's view, institutions that are systemically closed and reject public demands for transparency will ultimately lose their social legitimacy and fail to sustain themselves in the long term.³⁶

When confronted with the concept of "Responsive Law," the Constitutional Court, along with its ethical oversight body, the MKMK, instead exhibits a concerning trend. Rather than responding to civil society's demands for increased transparency and the involvement of external parties in oversight, the Court tends to take steps that fortify its own immunity boundaries, reject the involvement of the Judicial Commission, and manage ethical oversight internally. This stance, which distances itself from public aspirations for more open and multi-stakeholder oversight, theoretically indicates that the Constitutional Court is retreating toward the "Autonomous Law" model. This model emphasizes adherence to rigid legal procedures, tends to be detached from the moral needs of society, and prioritizes institutional independence and internal solidarity. Ultimately, this condition undermines the social legitimacy of the MKMK, such that its ethical rulings are no longer viewed by the public as an embodiment of truth-seeking, but rather as a formal procedure designed to protect the internal interests of the constitutional guardians' elite.³⁷

Based on a comprehensive analysis of Philip Selznick's five indicators above, a clear conclusion can be drawn: the MKMK, with a composition currently dominated by internal elements, has not yet demonstrated a sufficient level of sociological maturity or institutional culture to be characterized as an ideal moral oversight institution. These deficiencies in authority and integrity cannot be resolved merely through the amendment or adjustment of internal regulations. The state must undertake a more fundamental overhaul of the institutional design for ethical oversight within

³⁶ Robert A. Kagan, *Law & Society in Transition*, n.d.

³⁷ Elsahra, "Mekanisme Hukum Penerapan Sanksi Etik Oleh Majelis Kehormatan Hakim Konstitusi (MKMK) Dalam Mengadili Pelanggaran Etik Hakim Konsitusi."

the Constitutional Court. This reform must be capable of severing the patterns of collegiality that potentially breed conflicts of interest by shifting the center of oversight toward an external mechanism involving multiple oversight authorities.

2. Institutionalizing External Ethical Oversight for Constitutional Justices through the Integrated Oversight Model and Checks and Balances Perspective

The structural paralysis within the internal ethical oversight system, as previously explained, indicates that conventional constitutional approaches are no longer adequate.³⁸ Consequently, a new framework is required—one that adopts modern public governance principles into the judicial system. One academic approach deemed relevant to address issues of jurisdictional fragmentation, regulatory disharmony, and weak accountability is the implementation of the Integrated Oversight Model (IOM), aligned with the principles of checks and balances.³⁹

Initially, the IOM developed as a governance doctrine used in managing multinational financial institutions, large-scale corporate management projects, and efforts to harmonize the overlapping authorities of various public agencies. Examples can be seen in the need for coordination between institutions such as the Corruption Eradication Commission (KPK), the judiciary, and the internal oversight systems of State-Owned Enterprises (BUMN), which frequently face potential conflicts of interest. When IOM principles are applied to constitutional law, specifically in the design of judicial oversight, the oversight paradigm

³⁸ Mustopa, “Pelaksanaan Sistem Pengawasan Hakim Konstitusi Di Indonesia.”

³⁹ G Pramono and Munawar Hidayatullah, “A., Judge Freedom Versus Accountability on Oversight System and Ethics Enforcement Mechanism in Criminal Justice in Indonesia,” *Jurnal Akta* 12, no. 1 (2025).

undergoes a fundamental shift.⁴⁰ The oversight model is no longer sporadic, defensive, or merely reactive to emerging scandals; instead, it evolves into an integrated, multi-layered, and prevention-oriented oversight system that operates more consistently and systematically.⁴¹

In reformulating a robust institutional design for the external oversight of the constitutional justices' code of ethics, the institutional architecture must be built upon four primary pillars of the Integrated Oversight Model (IOM). These pillars include: (1) Unified Redundancy, (2) Streamlined Control Mapping, (3) Multi-level Oversight, and (4) Extensive Checks and Balances. These four indicators are further elucidated as follows:

1) *Unified Redundancy*

It is essential to eliminate the inefficiencies arising from the fragmentation or separation of oversight functions that operate in isolation. In previous constitutional practices, the oversight of judicial institutions was conducted by various parties acting independently—such as sectoral ethics councils, the MKMK, civil society monitoring groups, and non-governmental organizations. Each carried out its role without integrated coordination, resulting in oversight that occurred in disconnected silos. The concept of Unified Redundancy proposes a shift by halting these fragmented work patterns. All monitoring mechanisms, including whistleblowing systems for reporting alleged violations and channels for public complaints, are directed to be consolidated and managed in an integrated manner within a single external oversight body with clear and coordinated authority.⁴²

⁴⁰ Khairul Umam, Ashari Ashari, and Muh Alfian Fallahiyah, "MODEL PENGAWASAN HAKIM KONSTITUSI DALAM RANGKA MEWUJUDKAN PUTUSAN YANG BERKEADILAN: Model of Constitutional Judge Supervision in Realizing Justice Oriented Decisions," *Ganec Swara* 19, no. 4 (2025): 1455–62.

⁴¹ Osagioduwa and State, "Strategic Contract Oversight for Sustainable Infrastructure Development Across Nationally Significant Construction Sectors."

⁴² Osagioduwa and State.

The implementation of the Unified Redundancy concept demands a reaffirmation of a single primary authority to serve as the oversight hub, namely the Judicial Commission of the Republic of Indonesia. The Judicial Commission must be strengthened as the center for consolidating external oversight across all levels of judicial power. Through this mechanism, various inputs, public criticisms, and the results of inquiries or investigations regarding alleged ethical violations by constitutional justices can be gathered and processed centrally through the Judicial Commission. Such integrated management aims to ensure that public reports are neither ignored nor stalled within internal oversight bureaucracies, which are prone to fostering compromise.

2) Streamlined Control Mapping

This pillar asserts that the proceedings for ethical violations and the sanction-related decision-making process must no longer occur behind closed doors in exclusive spaces, as seen in the current practice of internal rule-making within the Constitutional Court. Within the IOM framework, this demands the application of the Streamlined Control Mapping principle—an oversight system that ensures every stage of an ethical examination is clearly recorded, making the evidentiary trail auditable (traceable evidence) and subject to public monitoring.⁴³ Given that the subjects under investigation are state officials holding constitutional authority with far-reaching impacts, every ethical conclusion and the rationale for imposing sanctions must be grounded in clear data, rational argumentation, and consistent, equitable compliance parameters (compliance indicators). The implementation of this principle can also be bolstered by digital technology through digital feedback loops. Such a system enables the development of a governance dashboard featuring various integrity indicators—such as judicial track records, wealth report (LHKPN) compliance, and the social conduct of constitutional justices—

⁴³ Osagioduwa and State.

allowing the public to monitor and assess the propriety of their behavior more transparently.

3) Multi-level Oversight

Oversight must not be understood merely as a mechanism for imposing punishment after a violation has occurred. Through the concept of Multi-level Oversight, oversight is designed to operate in two complementary stages: the prevention stage before a violation occurs (*ex-ante*) and the enforcement stage after a violation has occurred (*ex-post*).⁴⁴ In the first stage, or *ex-ante*, oversight is conducted preventively before a detrimental legal decision is made. This oversight may take the form of independent judicial track-record tracing, monitoring of suspicious increases in personal wealth, investigations into potential hidden political patronage, lifestyle audits, and periodic forensic examinations to detect integrity deviations. If these preventive efforts fail and an ethical violation occurs, the oversight enters the second stage, or *ex-post*. At this stage, the external oversight body exercises its jurisdictional authority to conduct open ethical proceedings and impose firm sanctions for proven violations.

4) Extensive Checks and Balances

These managerial instruments will only function effectively within a state's legal system if they are integrated with the principle of checks and balances, which is capable of preventing the absolute concentration of power in a single institution. While the independence of judicial power must be safeguarded, independence without accountability mechanisms can open the door to institutional arrogance and the abuse of authority. Therefore, in accordance with the principle that power must restrain power (*power checks power*), the authority to impose the sanction of dismissal upon a constitutional justice should not rest entirely in the hands of a single institution. An oversight system involving multiple agencies is necessary to

⁴⁴ Osagioduwa and State.

ensure that potential deviations of power can be controlled in a more balanced manner.⁴⁵

The broader involvement of various institutions requires the IOM to propose a division of authority in the process of dismissing constitutional justices. In this scheme, if the Judicial Commission, acting as an external ethical tribunal, determines that a constitutional justice warrants dismissal, the Commission would not directly possess the administrative authority to revoke their position. Instead, the Judicial Commission would submit its investigation results and recommendations to a political representative body, namely the House of Representatives (DPR), as the representation of the people. This division of authority in the dismissal process is intended not only to reduce the potential for internal protectionism within the judiciary but also to prevent any possible abuse of power by the oversight body itself.

The implementation of the IOM, coupled with checks and balances mechanisms, can be achieved without undermining the independence of Constitutional Court justices; in this regard, Indonesian constitutional law studies should look to the successful example of the Judicial Service Commission (JSC) in South Africa.⁴⁶ South Africa underwent major constitutional reforms following the collapse of the apartheid regime through the 1996 Constitution, which emphasized constitutional supremacy and the rule of law. The country established an external oversight body to build a truly impartial and non-discriminatory judiciary, known as the Judicial Service Commission (JSC).⁴⁷

The JSC serves as a concrete example of integrated oversight implementation due to its hybrid membership structure, which involves

⁴⁵ Grant Masterson and Melanie Meirotti, *Checks and Balances: African Constitutions and Democracy in the 21st Century*, 2017, <https://www.eisa.org/pdf/symp2015bk.pdf>.

⁴⁶ Sunarto Sunarto, "Prinsip Checks and Balances Dalam Sistem Ketatanegaraan Indonesia," *Masalah-Masalah Hukum* 45, no. 2 (2016): 157–63.

⁴⁷ "Regime Capture of the Courts in Africa – Africa Center," accessed March 11, 2026, <https://africacenter.org/spotlight/regime-capture-courts-africa/>.

diverse societal elements. Pursuant to Section 178 of the South African Constitution, the JSC consists of 23 members representing various stakeholders, ranging from the Chief Justice and several senior judges to the Minister of Justice as the executive representative, parliamentary representatives from both the National Assembly and the National Council of Provinces, legal professionals such as advocates and attorneys, academics, and public figures appointed by the President. This diverse structure demonstrates that multi-stakeholder oversight can operate concurrently while maintaining the independence of the judicial branch.

The constitutional functions of the JSC in South Africa are not limited to recommending judicial candidates for appointment; they possess far broader authorities. The institution is granted full jurisdiction to receive public complaints, conduct proactive investigations, and convene ethical tribunals for judges, including those of the Constitutional Court. This oversight system, which applies to all judges without exception, stands in stark contrast to the practice in Indonesia, where the Constitutional Court has rejected being under the oversight of the Judicial Commission. Notably, even South African constitutional justices remain subject to the external oversight mechanisms administered by the JSC, and the existence of such oversight has never been regarded by the international legal community as a threat to judicial independence or the institution's authority in exercising its adjudicative functions.⁴⁸

The application of the principle of checks and balances in South Africa is clearly evident in the removal process of embattled judges. Pursuant to Section 177 of the South African Constitution, a judge—including a Constitutional Court justice—can only be removed through a rigorous two-stage process involving multiple state institutions. The first stage consists of an investigation by the JSC, which acts as a tribunal to

⁴⁸ Lunga Siyo and John Cantius Mubangizi, "The Independence of South African Judges: A Constitutional and Legislative Perspective," *Potchefstroom Electronic Law Journal* 18, no. 4 (2015): 817–46, <https://doi.org/10.4314/pelj.v18i4.03>.

determine whether a judge suffers from incapacity, is proven grossly incompetent, or has committed a gross ethical violation that undermines the integrity of the office. If the JSC finds the judge guilty, the decision does not immediately result in dismissal; rather, it must proceed to the second stage within the National Assembly (parliament). A judge can only be impeached if the removal resolution is approved by at least a two-thirds majority of the members of parliament. Once the resolution is passed, the President acts merely in an administrative capacity to formalize the judge's removal, without possessing the authority to veto the parliamentary decision. This mechanism demonstrates that the removal of a judge is conducted with extreme caution, transparency, and through cross-institutional oversight.⁴⁹

The superiority of an oversight system based on the IOM lies not only in the existence of an independent external overseer but also in its ability to build control mechanisms that can supervise the oversight body itself, a principle known as "oversight of the overseer." A frequent concern raised by those who reject external oversight is the assumption that institutions such as the Judicial Commission could potentially transform into a new, overdominant power acting arbitrarily toward the judiciary. This concern can actually be addressed through the comprehensive application of the principle of checks and balances, as this system provides correction mechanisms should the oversight body deviate from its authority. This idea is clearly reflected in South African constitutional practice, where judicial oversight mechanisms are designed not only to supervise judges but also to ensure that the oversight body remains within the corridors of law and accountability.⁵⁰

⁴⁹ Amendment Bill, "Republic of South Africa Republic of South Africa" 94, no. (1973): 18, [http://www.dhet.gov.za/Gazette/DHET Research Agenda 19 Aug 2014 Final edited \[1\].pdf](http://www.dhet.gov.za/Gazette/DHET%20Research%20Agenda%2019%20Aug%202014%20Final%20edited%20[1].pdf).

⁵⁰ PRINCE MUHOMBA, "POLITICAL PAWNS IN THE JUDICIARY? UNVEILING THE CONSTITUTIONAL LACUNA," 2025.

The accountability mechanism for the judicial oversight body is vividly demonstrated in the landmark ruling of *Freedom Under Law v JSC*, which resonated throughout the world of constitutional law. The case began when eleven justices of the South African Constitutional Court collectively reported John Hlophe, Judge President of the Western Cape High Court, to the JSC for alleged gross ethical violations. Hlophe was accused of attempting to influence the constitutional justices to favor a major case involving the political figure Jacob Zuma. However, because the case was fraught with political pressure, the JSC remained passive and decided not to pursue a serious investigation. This decision was subsequently challenged by an independent civil society organization, Freedom Under Law (FUL), through a judicial review mechanism. After a lengthy legal process, the Supreme Court of Appeal, in ruling number 52/2011, ultimately overturned the JSC's decision. The court declared that the JSC has a constitutional obligation to rigorously investigate every allegation of gross ethical misconduct by a judge, and the JSC's failure to do so was deemed a dereliction of its constitutional responsibility. This ruling demonstrates that even a judicial oversight body remains subject to supervision and correction through available legal mechanisms.⁵¹

The pattern of legal intervention against the negligence of oversight bodies recurred in 2019 in a case involving Judge Nkola Motata. The judge was embroiled in a scandal after making derogatory racial remarks and being caught driving under heavy intoxication. Initially, the JSC merely imposed a lenient financial fine and failed to recommend permanent dismissal as expected by the public. This decision was perceived as a display of indecisiveness by the oversight body. In response, the civil society organization Freedom Under Law again took legal action by challenging the JSC's decision in the High Court. This effort aimed to push for a stronger application of the principle of accountability toward judicial misconduct.

⁵¹ Estate R F Welch and Cloete Jja, "In the Supreme Court of Appeal of South Africa," no. March (2004): 1–52.

Due to legal pressure and widespread public support, the previously stalled proceedings eventually progressed, leading to the judge's impeachment process in parliament.⁵²

The series of precedents in the *Freedom Under Law v JSC* cases provide crucial lessons for the discourse on constitutional reform in Indonesia. These cases demonstrate that a judicial oversight body, such as a judicial commission, does not possess legal immunity; it remains accountable through the courts if proven to be indecisive, compromising, or unjust in handling alleged ethical violations by judges. This also reaffirms that civil society in a democratic state possesses a legitimate legal standing to challenge and advocate for the enforcement of high ethical standards within the judiciary. Furthermore, the fact that decisions made by powerful institutions like the JSC can be overturned by a court shows that checks and balances can function healthily without resulting in the dominance of one institution over another. The existence of an external oversight body does not create an absolute new power, as every decision or action taken by that body remains subject to testing through established legal mechanisms.⁵³

If the governance principles of the Integrated Oversight Model, coupled with South Africa's constitutional experience, are to be implemented within the Indonesian constitutional system, a collective awareness is required to fundamentally reformulate the boundaries of external oversight authority. This step is crucial to closing the authority vacuum in safeguarding the moral integrity of justices that emerged after the Constitutional Court Decision Number 005/PUU-IV/2006, which restricted the role of external oversight.⁵⁴ The future institutional design must be earnestly formulated by lawmakers to create an oversight system that is more equitable, transparent, and complementary among state

⁵² Vukile Nhlumayo, "THE IMPEACHMENT OF JUDGES: A SNAIL'S ADVENTURE AND A PROTRACTED EXERCISE." 177, no. 1 (2024): 1–12.

⁵³ Welch and Jja, "In the Supreme Court of Appeal of South Africa."

⁵⁴ Sibarani and Hutahean, "Urgensi Pengawasan Eksternal Hakim Mahkamah Konstitusi Dalam Pengujian Undang-Undang Berdasarkan Kekuasaan Kehakiman Menurut Uud Nri 1945."

institutions—devoid of excessive mutual suspicion—thereby ensuring that the objective of preserving the integrity of the judiciary is successfully achieved.

The first operational step required is to review and dismantle the exclusive authority of the Constitutional Court Honor Council (MKMK), which currently provides dominant space for active constitutional justices to be involved as examiners of ethical violations. This practice must be altered as it inherently risks creating conflicts of interest within the ethics enforcement process. The next critical step is to fully restore external oversight authority to the Judicial Commission of the Republic of Indonesia. The Judicial Commission must be repositioned within its constitutional mandate, aligning with the original intent of the framers of the 1945 Constitution of the Republic of Indonesia during the Reformation era—namely, as an institution holding the primary role in safeguarding the integrity and honor of justices through independent oversight mechanisms.

To reach a compromise that alleviates concerns regarding external oversight potentially infringing upon judicial independence, the mechanism for handling ethical violations can be designed as a two-stage resolution process: initially, the Judicial Commission, as an external oversight body, would manage all public reports, preliminary investigations, and evidentiary collection, and upon finding strong evidence of gross misconduct—such as attempts to influence rulings or political interventions—it would not immediately impose dismissal but instead submit its findings to the House of Representatives (DPR) for a final political-state decision, a division of authority that mirrors the South African system between the Judicial Service Commission and the National Assembly; alternatively, a permanent Integrated Judicial Ethics Council could be established under the administrative coordination of the Judicial Commission, composed of former justices of high integrity, constitutional law academics, and anti-corruption civil society representatives, strictly

excluding active constitutional justices to ensure an enforcement process that remains independent and free from conflicts of interest.

By implementing the IOM principles as elucidated in this research, every decision or recommendation for ethical sanctions produced by the Judicial Commission's council shall no longer be regarded as an unquestionable verdict; rather, should there be future allegations that the council has exceeded its authority or failed to conduct a serious investigation into a justice's misconduct, such decisions remain judicially reviewable. Aggrieved parties, including civil society groups, may file a lawsuit through the Administrative Court (TUN) to evaluate whether the administrative decision was rendered lawfully and within its prescribed jurisdiction. In this manner, the Judicial Commission's actions remain firmly within the framework of legal accountability and subject to supervision by higher judicial bodies—a practice exemplified by the *Freedom Under Law v JSC* case in South Africa—demonstrating that a democratic legal system consistently provides correction mechanisms even for its oversight institutions.

TABLE 2. Formulating IOM Implementation for Constitutional Justice Oversight in Indonesia

Indicator	Current System: MKMK (Indonesia)	Comparative Reference: JSC (South Africa)	Proposed Design: Integrated Oversight Model (IOM)
Institutional Nature	Closed and Internal (Self-regulatory).	Open and External (Hybrid).	Open and Externally Integrated (Unified Redundancy).

Membership Composition	Dominated by internal elements, involving active constitutional justices.	Diversified: involves senior judges, the executive, parliament, academics, advocates, and public figures.	The Judicial Commission (KY) in its entirety, or a Permanent Ethics Council under KY without active constitutional justices.
Oversight Focus	Reactive (ex-post), focusing on violations after they occur.	Proactive; possesses full authority to investigate and convene ethical tribunals.	Multi-layered (Multi-level Oversight): encompassing both preventive (ex-ante) and punitive (ex-post) measures.
Removal / Dismissal Authority	Absolute authority vested within the MKMK.	Divided (Checks and Balances): JSC acts as an investigative tribunal; Parliament (National	Divided (Checks and Balances): Judicial Commission (KY) conducts investigations and recommendati

Assembly)	ons; the DPR
serves as the	serves as the
final arbiter.	final decision-
	maker.

Source: Author's Analysis (2026)

The implementation of this fundamental reform of the constitutional justice oversight system is believed to lead the Constitutional Court of Indonesia toward a higher stage of institutional maturity, while simultaneously liberating it from the stigma of being a closed institution vulnerable to patronage and interest-based interventions. Through these changes, it is hoped that the dignity of the Constitutional Court can be restored, allowing it to once again serve as a moral institution that sets the standard for upholding constitutional values and the rule of law. This paradigm shift is not an attempt to weaken or delegitimize the guardian of the constitution; rather, it is a form of concern and responsibility to safeguard the institution's honor from being further eroded by practices of power-based impunity and excessive corporate protectionism. This reform serves as a constructive step to ensure that the Constitutional Court remains a vital pillar in the development of modern law and democratic life in Indonesia.

Conclusion

Based on the author's analysis, the following conclusions can be drawn: *First*, from a historical perspective, the oversight system for constitutional justices in Indonesia has shifted from an open oversight model based on the separation of powers to a closed internal mechanism through the establishment of the MKMK. This shift has created potential conflicts of interest and undermined the independence of oversight,

necessitating a critical re-examination of the MKMK's effectiveness as a guardian of the justices' integrity and ethics. Institutionally, the MKMK has yet to function as an ideal moral overseer because its composition remains dominated by internal elements, making it vulnerable to "corporate solidarity" bias. Consequently, ethical oversight has become less effective, leading to a decline in public trust. This condition demonstrates that merely refining internal regulations is insufficient; therefore, a fundamental change is required to restore oversight to a more independent external mechanism.

Second, the institutional design of an external oversight body for the constitutional justices' code of ethics, based on the Integrated Oversight Model (IOM) and a checks and balances perspective, places ethical oversight within a more transparent framework through four primary pillars: unified redundancy, streamlined control mapping, multi-level oversight, and extensive checks and balances. This model necessitates the removal of the MKMK's exclusive authority, which is prone to conflicts of interest. Under this design, the Judicial Commission is tasked with conducting ethical investigations and examinations, while the authority to dismiss a constitutional justice is vested in the House of Representatives (DPR); furthermore, every ethical sanction remains subject to judicial review by the Administrative Court (TUN) to ensure comprehensive legal accountability.

Based on the aforementioned findings, the author recommends the following: (i) the House of Representatives (DPR) and the President should take immediate concrete steps to review the Constitutional Court Law, specifically regarding the exclusive authority of the MKMK, and restore the external oversight mandate over constitutional justices to the Judicial Commission; (ii) the Judicial Commission should ideally consider the establishment of a permanent Integrated Judicial Ethics Council under its coordination, excluding active constitutional justices from its membership to ensure that the ethics enforcement process is free from conflicts of interest; (iii) the Supreme Court should regulate the jurisdiction of the

Administrative Court (PTUN) to review ethical sanction decisions issued by the oversight council, thereby fulfilling the principle of accountability and preventing potential abuses of power; and (iv) the public and the academic community should enhance public participation in the ethical oversight of constitutional justices through social control functions, academic research, and policy advocacy to strengthen the transparency and legitimacy of the constitutional judicial oversight system.

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