**Appointing Constitutional Court Justices with Statesman Qualification through Transparent Selection Mechanism**

Iwan Satriawan¹, Hanifa Erianto²

¹Universitas Muhammadiyah Yogyakarta, Indonesia  
E-mail: iwansatriawan@umy.ac.id  
²Universitas Muhammadiyah Yogyakarta, Indonesia  
E-mail: hanifaerianto@gmail.com

Submitted: November 11, 2023; Reviewed: February 29, 2024; Accepted: April 17, 2024.

<table>
<thead>
<tr>
<th>Article Info</th>
<th>Abstract</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Keywords:</strong> Constitutional Court Justices, Selection Mechanism, Statesman.</td>
<td></td>
</tr>
<tr>
<td><strong>DOI:</strong> 10.25041/ fiatjustisia.v18no1.3240</td>
<td>There is an unclear definition regarding the qualification of a statesman in the candidacy of Constitutional Court Justices. In addition, no assessment is used to search for those who qualify as statesmen. This study aims to determine the nature and characteristics of statesmen as an indication of the selection mechanism of Indonesian Constitutional Court Justices and evaluate whether the selection mechanism may produce justice with statesman qualification. The research method is normative and empirical legal research, which uses philosophical, historical, conceptual, and statute approaches. The result shows that the concept and nature of statesmanship as a requirement for Constitutional Court Justices is based on the Republic of Indonesia’s Constitution and the Constitutional Court Law, which states that Constitutional Court Justices must meet the requirements such as integrity and impeccable personality, fair; and statesman who control the Constitution and state administration. However, the recruitment procedure is excessively more political and unstandardized. Therefore, the current mechanism for selecting Constitutional Court Justices may not generate Justices with statesman-like behavior. The research recommends that in the future, the selection mechanism of the Constitutional Court Justices needs to be reconstructed to produce Justices with statesman qualifications by having a more transparent procedure.</td>
</tr>
</tbody>
</table>
A. Introduction

Since the establishment of the Constitutional Court in 2003, there have been several cases of bribery and violations of the code of ethics against Constitutional Justices, which are contrary to statesmanship. The table below lists these cases based on the Decisions of the Ethics Council and The Honorary Council of the Constitutional Court.

Table 1. List of Constitutional Court judges affected by ethical and criminal violations

<table>
<thead>
<tr>
<th>No</th>
<th>Year</th>
<th>Justice</th>
<th>Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2010</td>
<td>Arsyad Sanusi</td>
<td>Violation of the Code of Ethics</td>
</tr>
<tr>
<td>2</td>
<td>2013</td>
<td>Akil Mochtar</td>
<td>Bribery</td>
</tr>
<tr>
<td>3</td>
<td>2016</td>
<td>Arief Hidayat</td>
<td>Violation of the Code of Ethics</td>
</tr>
<tr>
<td>4</td>
<td>2017</td>
<td>Patrialis Akbar</td>
<td>Bribery</td>
</tr>
<tr>
<td>5</td>
<td>2018</td>
<td>Arief Hidayat</td>
<td>Violation of the Code of Ethics</td>
</tr>
<tr>
<td>6</td>
<td>2023</td>
<td>M. Guntur Hamzah</td>
<td>Violation of the Code of Ethics</td>
</tr>
<tr>
<td>7</td>
<td>2024</td>
<td>Anwar Usman</td>
<td>Violation of the Code of Ethics</td>
</tr>
</tbody>
</table>

The above data shows that Judges involved in bribery and violations of the code of ethics are the product of non-transparent selection mechanisms that do not have good integrity. This is evidenced by the cases of judges Akil Mochtar, Patrialis Akbar, Arief Hidayat, and Anwar Usman, who were appointed as Constitutional Court justices through a process that was not transparent and accountable.

The implications of the above cases are hazardous for the development of law and society. When law enforcers violate the law itself, then people will reflect on why they should follow the rule of law, while law enforcers do not act reasonably and instead violate the rules. This will lead to legal chaos in society and distrust of a vital institution, namely the Constitutional Court.¹

The appointment of Constitutional Justices is mainly regulated in the 1945 Constitution of the Republic of Indonesia, which governs the appointment of Constitutional Justices,² all of which contain the mandate of establishing a

---


² Ahmad Syaifudin Anwar and Lilik Agus Saputro, “Kemandirian Kekuasaan Kehakiman Dalam Mekanisme Pengangkatan dan Pemberhentian Hakim Konstitusi,” *Staatsrecht:*
derivation of the appointment rules and requirements for Constitutional Justices in a law.\textsuperscript{3} The Constitutional Court, following the principle of independence of the judiciary, is recognized as independent in the sense that it should not be intervened in or influenced by other branches of power, especially the government.\textsuperscript{4}

Since its inception, the Constitutional Court has 5 (five) generations of appointment of Constitutional Justices.\textsuperscript{5} Article 24C Paragraph (5) of the 1945 Constitution, "Constitutional Justices must have integrity, and personality that is not blameworthy, fair, statesman who master the constitution and administration, and not concurrently serving as a state official."\textsuperscript{6} The question is, what exactly is meant by a statesman, and why is a statesman required to be a constitutional Justice? From a grammatical point of view, statesmen have knowledge and expertise in the administration of the state, sufficient experience, and commitment to organize and oversee state life by the Constitution.\textsuperscript{7}

One of the troubling issues is that the filling of the position of Constitutional Justices has been characterized by a lack of harmony with the prestige of the position of Constitutional Justices, which is attached to honor, authority, and glory. For example, the mechanism of filling the position with a selection model is no different from the selection of positions. The main difference between the position of Constitutional Justices and other positions is that the 1945 Constitution mandates that the selected individual possess the requirement of a statesman. The position of Supreme Court Justices also normatively does not mention the need for a statesman requirement.\textsuperscript{8} Also, the head of the state, the President of the Republic of Indonesia, does not require a statesman.\textsuperscript{9}

\textsuperscript{3} Abdul Mukhtie Fadjar, Penegakan Hukum Konstitusi oleh Mahkamah Konstitusi: Dinamika dan Tantangan (Malang: Universitas Brawijaya, 2014), 2.

\textsuperscript{4} Jimly Asshidiqie, Konstitusi & Konstitusionalisme Indonesia (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2005), 237.

\textsuperscript{5} Op. Cit., Fadjar, Penegakan Hukum Konstitusi Oleh Mahkamah Konstitusi, 2–3.

\textsuperscript{6} See Article 24C Paragraph (5) of 1945 Constitution of Republic Indonesia.


\textsuperscript{8} This can be seen in the requirements to become a Supreme Court judge as set out in Article 7 of Law Number 5 of 2004 Concerning Supreme Court. The article outlines the requirements for supreme court judges, both career and non-career based, in great detail. However, nowhere does it mention that a supreme court judge must be a statesman.

\textsuperscript{9} See Article 5 of Law Number 42 of 2008 on the General Election of President and Vice President. During the discussion of the law, the Prosperous Justice Party faction proposed that the presidential and vice-presidential candidates who participated in the presidential election should be statesman. Almuzammil Yusuf in the DIM discussion meeting of the Presidential Election Bill said that his faction wanted to add one of the requirements for
Statesman qualities include aspects of knowledge, personality, commitment, and experience. If we look forward to the treatise on the discussion of amendments to the 1945 Constitution, there is debate about the statesman requirements for being a Constitutional Justice. During the Ad Hoc Committee I meeting of the MPR Working Committee, some members proposed replacing the statesman requirement with another formulation for fear that there would be no definite understanding. It is even feared that the requirement for a statesman will become a burden in selecting Constitutional Justices.

Constitutional justices are needed to exercise the Constitutional Court's authority, not just legal experts. According to the opinion of Hamdan Zoelva during the discussion at PAH I BP MPR, we need a legal expert who is a statesman with expertise in law. In the end, the conditions for a statesman are approved, given the nature of the constitutional authority vested in the Constitutional Court. In addition to having integrity and expertise in the areas under the authority of the Constitutional Court, Constitutional Justices should carry the political interests of statesmanship in maintaining and interpreting the Constitution. The selection of Constitutional Justices should elaborate and consider the statesmanship potential of the candidates. Article 24A paragraph (2) states that Constitutional Justices must have integrity, fairness, professionalism, and experience in the field of law.

Based on the background above, examining whether the current selection mechanism has succeeded in producing Constitutional Justices who are statesmen is necessary. The research method is a normative and empirical legal study (combined) that uses philosophical, historical, statute, and conceptual approaches. The data in this research are analyzed by using a qualitative approach, which aims to analyze circumstances, phenomena, events, social activities, attitudes, beliefs, perceptions, and thoughts individually or in groups.

In this article, our primary focus is discussing the concept of 'statesman' within the context of the Constitutional Court Justice selection mechanism in presidential and vice-presidential candidates to be a statesman who mastered the constitution and state administration. FPKS argues that a statesman better understands the constitutional system and is more concerned with the interests of the nation and state than his personal or group interests, in the Presidential Election Bill: “The President must be a statesman who masters the constitution”.


See Law Number 8 of 2017 Concerning the Constitutional Court.
Indonesia. Notably, there is a lack of research specifically addressing the notion of 'statesman' in this realm. While existing literature frequently concentrates on the selection mechanism itself, our research aims to fill this research gap by exploring how the 'statesman' qualification aligns with and impacts the criteria, procedures, and inherent challenges within the Indonesian selection mechanism for Constitutional Justices. This inward-focused analysis on the concept and characteristics of statesmen as the requirement of constitutional justices and whether the current selection mechanism of constitutional justices produces judges with statesman behavior. By scrutinizing these, the research is expected to offer a fresh perspective and bring a sense of novelty to contribute to thought about the nature of Constitutional Justices and generate a better concept of Constitutional Court Justices and their selection mechanism.

B. Discussion

1. The Concept and Nature of Statesman as Requirements for Constitutional Justices

Statesmanship can roughly be defined as morally excellent leadership at the polity level. From a philosophical point of view, the character of the statesman, as stated by Edmund Burke, a British political thinker of the 18th century who concluded that the significant difference between a true statesman and a swindler is that the statesman sees the future and acts on established principles and for eternity. In contrast, the swindler only sees the present and acts based on injustice and immorality. He distinguishes the characteristics of statesmen and politicians, where statesmen can think long-range and operate on enduring principles. Statesmen must have courage, foresight, and immense practical judgment.

According to Gordon, a statesman is actively engaged in conducting a government's business or shaping its policies. Statesmen are not much different from politicians. However, statesmen have a visionary mindset to

---


manage the country for the better by giving up personal interests in contrast to politicians who think pragmatically and whose orientation lies in the benefits of individuals or groups. Statesmen thoroughly consider the people's interests, while politicians always talk about political interests, whether personal goals or groups. Therefore, seeing from their duties and functions to enforce the law, it is appropriate that the judges are essentially statesmen who work not for other than the state's interests.

In essence, the concept of a statesman is not dissimilar to something like a politician. The point is that statesmen have a visionary mindset to properly manage the country by sacrificing personal interests, which contrasts with politicians who think pragmatically and are concerned with the welfare of individuals or organizations. A statesman is just, respecting the laws and the basic principles in the laws. Statesmen thoroughly consider the interests of the people, whereas politicians always discuss political interests, whether personal or collective aims. Therefore, it is appropriate if the judges are essentially statesmen, if seen from their duties and functions, to enforce law and justice, not for other interests other than for the interests of the state, which reflects the interests of the people. Historically, Plato, a scholar from Greece, defined the true statesman as a person who acts from science and justice and is concerned with safeguarding the citizens of the polis as well as improving them. The characteristics of a statesman are:

1. Has a very brilliant and observant ability; more a talent integrated with the courage to go against the grain and determined to make changes and structural reforms.
2. Trying to enter totally new things, choosing to be a pioneer.
3. Because what is stated is a totally new thing, the concept put forward is surprising, and those who still think of the old pattern doubt it.
4. Able to offer complete solutions, as well as positive and constructive total reforms/revolutions, to offer concepts and actions to stop major crises that hit one nation or several nations.

5. Able to offer real hope and opportunity, builds self-esteem, and is of great value.

6. Dare to face the risk of going against the regime and/or the power in power.

According to Rocky Gerung, the benchmark for a judge is to serve public criticism and aspirations that are not submitted through judicial review. In contrast, judicial review is usually regulated in procedural law, but what is not regulated in procedural law is the statesmanship factor. The benchmark is that judges have two powers, namely, the power to accept demands for judicial review and the power to activate constitutional state ideas.23

Another opinion was also described by Prof. Susi Dwi Harijanti, who explained that the statesman's attitude must always be determined as one of the qualifications of a Constitutional Justices. The statesman is defined as the first in the principle of the art of government, followed by a wise and respected political leader. As a result, the definition of a statesman is a person who has principles in the administration of the state and those who adhere to the vital values in state administration.24

The figure of a statesman is not only to maintain a good image among his people. The characteristics and traits of Statesmen are implicit in the duties closely related to judges' impartiality in examinations and decision-making. The judge's freedom is not absolute because, of course, it is limited by law and justice. Judges have the freedom to carry out their duties judicially and are only accountable to God. The freedom of judges is functionally attached to accountability that is open to the community, so judges are not only accountable for implementing their functional freedom to God. Independence and impartiality are crucial when faced with the influential political forces of those who appoint or elect the judges.

Previously, in the history of the Constitutional Court, there have been several crises of trust. Rocky Gerung stated that there have been several violations of the code of ethics and criminal law. In order to create clear parameters related to the eligibility of candidates for Constitutional Justices and restore public trust in court judges, the Constitution then starts by proposing figures who come from the public, not from Parliament.

"If we want to change the procedure for selecting Constitutional Court Justices, it is better to hold a kind of public hearing that there are good judges, not those from political parties, and should be proposed as candidates for Justices of the Constitutional Court, not judges who have had good careers for years but then close to a political party and get involved in asking for support, it is better if the process of selecting the judge is carried out openly and has potential."

23 Interview with Mr. Rocky Gerung, SS., March 12, 2022.
Another opinion was expressed in an Interview with Prof. Susi Dwi Harijanti that the history of the journey of the Constitutional Court experienced a crisis of trust by the public. Previous Justices of the Constitutional Court committed several criminal acts to create clear parameters related to eligibility as a candidate for judge of the Constitutional Court itself and restore public trust in judges. The constitutional court has been tarnished due to a crisis of confidence in the community that the constitutional court is a court that handles state decisions, which has become a very political decision. It is because terminology means solving political problems through the law in the judicialization of politics. In this case, it becomes important for the community, meaning that political problems are resolved through the law. Therefore, there will be a certainty that the law is supreme.

Based on the interview results above, it can be interpreted that a statesman is a visionary, long-term-oriented figure who prioritizes society's welfare, can act equally and fairly, and protects all components of the nation. In the other definition, a statesman is a designation for figures who have had respectable careers in the field of state, both nationally and internationally.

Table 2 The Aspects of Statesmanship of Constitutional Court Justice

<table>
<thead>
<tr>
<th>No</th>
<th>Aspect of Statesman Qualification</th>
<th>Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Knowledge</td>
<td>Expert in Constitutional Law has a vision of state administration foresight.</td>
</tr>
<tr>
<td>2.</td>
<td>Character</td>
<td>Independent, impartial, has integrity and courage, operates on enduring principles and values.</td>
</tr>
<tr>
<td>3.</td>
<td>Orientation of life</td>
<td>Protect society, put national interest as a priority over personal and group interest,</td>
</tr>
</tbody>
</table>

The Constitutional Court must be preserved from the destruction of independence due to reform, which is reforming the selection of judge positions by enhancing its accountability. There are essential concepts in the recruiting process for Constitutional Court Justices that should be regulated: nomination, track record, capacity testing, and proof of statesmanship. Because of the disparities in standards and mechanisms among the proposing state institutions in the process of recruiting candidates for Constitutional Court Justices, it may be challenging to produce judges with impeccable
integrity and personality, as well as fair statesmen who understand the constitution and state administration.

2. The Problem of the Selection Mechanism of Constitutional Justices

The position of Constitutional Justice is regulated in the 1945 Constitution, which stated that a Constitutional Justice is a statesman who controls the Constitution and state administration. This requirement for statesmanship is not specified for other state positions in the 1945 Constitution, so it has its meaning when associated with the Constitutional Court's authority.

Recruitment is the process of seeking, finding, and attracting capable applicants for employment in and by an organization. The selection of Constitutional Justices led to a trifurcation of the selection mechanism into three state institutions: the House of Representatives, the Supreme Court, and the President. The trifurcation of the selection mechanism for Constitutional Justices cannot be separated from the construction of norms in the Constitutional Court Law, which regulates the selection of Constitutional Justices who have a high degree of flexibility so that they can be interpreted freely and according to the tastes of each regime by institutions that have the constitutional authority to propose Constitutional Justices. The trifurcation condition gave rise to three branches of the mechanism for selecting Constitutional Justices:

a. The selection mechanism is carried out internally and privately. The selection mechanism, which is carried out internally and closed, is similar to that carried out by the Supreme Court, whose selection mechanism is carried out internally by the institution without having open information to the public. Therefore, there is no public participation as one of the social control mechanisms for the selection process, even the recruitment mechanism for judges.

b. The selection mechanism is carried out by appointing and extending the term of office of Constitutional Justices. The mechanism for selecting Constitutional Justices, by extension, has occurred in two state institutions: the President and The House of Representatives. A request from the President, for example, an extension was made to Constitutional Justice Maria Farida Indrati for a second term. This condition does not open up space for other people to register themselves as candidates for Constitutional Justice through the President's institution.

Even in the presidential institution, there has also been an election of Constitutional Justices through an appointment mechanism, as happened in the appointment of Patrialis Akbar as a Constitutional Justices by the President based on a proposal submitted by the Ministry of Law and Human Rights, which is a government institution that was once led by Patrialis Akbar. This led to public opinion that the appointment of Patrialis Akbar was a political compensation given by the President for the reshuffle step taken by the President. Meanwhile, in The House of Representatives, the mechanism for submitting Constitutional Justices is carried out by extending Akil Mochtar's term of office for a second period without opening the registration of candidates for Constitutional Justices.27

c. The selection mechanism is carried out by forming a team of experts.

The mechanism for selecting Constitutional Justices by forming a team of experts has been carried out by The House of Representatives and the President. The formation of the expert team was once carried out, one of which was when The House of Representatives selected Constitutional Justices for the sixth period, where the chairman of the expert team at that time was Syafi'i Maarif. Such a mechanism is not without problems but opens other problems, including the openness of recruitment by the House of Representatives only to legitimize the appointment of Constitutional Justices for several members of Commission III (2003, 2008, 2009, and 2013).28

It is worth emphasizing that the Constitutional Court Law has allowed the President, the DPR, and the Supreme Court to develop a recruitment mechanism for Constitutional Justices, such that the recruitment pattern created is starkly different. The three models for the recruitment of Constitutional Justices that have been implemented thus far are those that are not subject to the subjectivity of the President, the voting mechanism used by the DPR, and the closed system implemented by the Supreme Court. Unfortunately, the system's output encountered complex issues throughout the periodization of the leadership of the Constitutional Justices.

If the trifurcation condition in the selection mechanism is neglected, chaotic situations in the recruitment of Constitutional Justices will emerge, finally producing Constitutional Justices with inferior credentials. As a result, the disintegration of the Constitutional Court's authority is inextricably linked to the low integrity of constitutional justices who were chosen without considering a standardized procedure and without being screened via competitive phases.

27 Op., Cit., Indramayu, “Rekonseptualisasi Seleksi Hakim…,” 6
The nomination of a grand patriarch at the recommendation of the Ministry of Law and Human Rights, for example, demonstrates an uncompetitive selection method. Even though the President has the prerogative right to select candidate constitutional justices, He cannot deny the competence and integrity of Constitutional Justices, which must be produced through a participatory competition. This should be done to convince the public that Constitutional Justices from the President's envoys are chosen selectively, not through a pragmatic political filter.29

In addition, the factors causing the current Constitutional Court justices not to reflect the characteristics of statesmen in making decisions or in their behavior, as expressed by Mr. Rocky Gerung, SS., that if they come from politicians, the selection of Constitutional Justices arises due to political transactions, not ethical transactions, this is the reason why the current Constitutional Court does not reflect the characteristic of the statesman.30

The models of the Constitutional Justice recruitment system nearly affect the integrity of judges. There is at least a standardization of the pattern of Constitutional Justice recruitment that is compatible without reducing the authority of the President, DPR, and the Supreme Court as stipulated by law. One of the urgent procedures that must be fulfilled is an open recruitment process through sufficient confirmation hearings (open fit and proper assessment) in the DPR. This is one of the characteristics that must be standardized in recruiting Constitutional Justices,31 which is the starting point for generating excellent judges with the same integrity and independence from political concerns. The standardization of Constitutional Justices recruiting serves to assess and evaluate Constitutional Justices applicants objectively and accountable.32

Recently, one of the Constitutional Justices, Guntur Hamzah, was given a written sanction after being proven to have changed the substance of the decision in case number 103/PUU-XX/2022 related to the judicial review of the Constitutional Court Law, which discussed the removal of Constitutional Justices Aswanto. Guntur Hamzah admitted that he was the one who proposed changing the phrase 'dengan demikian (therefore)' to 'ke depan (in the future), 'and Guntur was proven to have violated the code of ethics and the principle of integrity.33

30 Interview with Mr. Rocky Gerung, SS, March 12, 2022.
31 Satjipto Rahardjo, Membedah Hukum Progresif (Jakarta: Penerbit Buku Kompas, 2006), 80.
This will certainly cause constitutional harm and is considered to affect all groups in society. If these cases are left unattended, there could be long-term effects.\textsuperscript{34} Observing this phenomenon, one can fear that the same thing will happen in similar situations. How can we trust the independence of judges when their own decisions can be changed?

Many experts argue that one of the characteristics of judicial independence can be seen in the selection process of judges. In addition, the "face" of the judiciary is shown by judges, to what extent they can be neutral, have integrity, are statesmen, and have a wise nature in deciding cases. If there have been irregularities and ethical and/or criminal violations, trust in the judicial institution will be inherently undermined. The violation of the code of ethics by Guntur Hamzah is said to have hurt the trust of the wider community. Especially considering the duties and mandate given to the Constitutional Court as an independent institution.

The above case and other cases of violations by Constitutional Justices are a form of weakness in the current recruitment mechanism for Constitutional Court judges. A weak recruitment system will not produce high integrity with a statesmanship justice to lead the judiciary process. The recruitment process is fundamental to continue to be evaluated because Constitutional Justices are judges at the highest level in the judicial system.

The current problem is that the appointment of Constitutional Justices proposed by the Supreme Court is closed, and only candidates from within the Supreme Court and the lower judiciary are proposed. The method of recruitment of Constitutional Court judges proposed by the Supreme Court should be open to the public, not only for internal judges within the Supreme Court but also for people outside the judiciary as long as they meet the requirements as stipulated in the UUMK.\textsuperscript{35}

The recruiting process significantly impacts how judges carry out their tasks and obligations. This is because the process of appointing objective and accountable judges may ensure that Constitutional Justices are accepted in society.\textsuperscript{36} At this point, the public, as social control agents, is able to see whether the objective and accountable parameters utilized as a benchmark by the proposing state institution conform with community expectations. According to the researcher, the definition of objective selection is anchored


\textsuperscript{36} Ahmad Syahrizal, Peradilan Konstitusi (Jakarta: Pradnya Paramita, 2006), 132.
in the election of judges who have gone through procedures and meet the qualifications for Constitutional Justice.37

3. The Future Model of Appointment to Produce Justices with Statesman Qualification

Based on the results of the interview with Mr. Rocky Gerung, SS., the criteria for the Constitutional Court justices and its selection mechanism as the supervision of the Constitutional Court Justices in the future specifically aim to produce statesman Constitutional Court Justices, starting from the process of finding qualified Justices. There must be a recruitment team from NGOs who create a specific criterion for a Justices. So, this process was created initially by civil society, not by the political community, in order to avoid political transactions. In terms of general technical requirements and educational requirements, it is not just a biodata with an academic basis but a bureaucracy based on excellence in the field of lectures.

In addition, in the opinion of Prof. Susi Dwi Harijanti, producing constitutional justices with statesman and integrity for a better future requires an evaluation of the current selection process, especially to see whether the candidate meets the requirements of a statesman. Secondly, if an evaluation deviates, there will be a remedy on which part must be improved. Third, this is the most crucial result: improving our political system and enriching the political system in Indonesia. The political system of the Indonesian state is still unhealthy because the candidates who are promoted from these political institutions do not have the potential to perform their duties.

Therefore, to build a solid recruitment system, in the process of finding constitutional judges who are statesmen, it is necessary to involve the Panel of Experts in the process. The Panel of Experts mechanism is a development of the mechanism carried out by the DPR by forming a team of experts or a team of experts.

The presence of the Panel of Experts does not reduce the authority of the proposing institution. The presence of the Expert Panel helps and strengthens the legitimacy of each proposing state institution in finding the ideal constitutional judge as mandated by the 1945 Constitution. In the end, each proposing institution will propose the names of candidates for constitutional judges based on the recommendations of the Panel of Experts.

C. Conclusion

The concept and nature of statesmanship as a requirement for Constitutional Justices is based on the Constitution of the Republic of

Indonesia and the Constitutional Court Law, which states that the Justices who are recruited must have integrity and impeccable personality, be fair, and statesmen who control the constitution and state administration. This requirement is an essential requirement that must receive the attention of State institutions that propose Constitutional Justice.

The current three Constitutional Justice recruitment system models nearly affect Justices' integrity. Several cases of violation of the code of ethics are the product of the non-transparent selection mechanism of Justices. This is evidenced by the cases of Justices Akil Mochtar, Patrialis Akbar, Arief Hidayat, Guntur Hamzah, and Anwar Usman, where they entered as Constitutional Court Justices through a process that was not transparent and accountable.

Therefore, in the future, there is a need to reformulate the mechanism for selecting Constitutional Court Justices with statesmanship in character. The research recommends that the new model must provide at least some aspects, i.e., there must be a standardized selection mechanism of the constitutional justices among the three organs, such as creating a confirmation hearing process in the DPR to guarantee the transparency and accountability of the recruitment. Additionally, to build a solid recruitment system, in the process of finding Constitutional Judges who are statesmen, it is necessary to involve the Panel of Experts. The Panel of Experts mechanism is a development of the mechanism carried out by the DPR by forming a team of experts that aimed to help and strengthen the legitimacy of each proposing state institution in finding more qualified Constitutional Court Justices.

References


Interview with Mr. Rocky Gerung, SS., March 12, 2022.

Interview with Prof. Susi Dwi Harijanti, S.H., LL.M., Ph.D., February 11, 2022.

Jayus, Indramayu, and Indrayanti. “Rekonseptualisasi Seleksi Hakim Konstitusi Sebagai Upaya Mewujudkan Hakim Konstitusi Yang

Law Number 5 of 2004 concerning Supreme Court.
Law Number 8 of 2017 concerning the Constitutional Court.
Law Number 42 of 2008 on the General Election of President and Vice President.


