

Reimagining Judge Oversight: Duties and Functions of the Judicial Commission in Action

Anita Kadir*

Commissioner of the Judicial Commission of Indonesia (KY-RI), 2025 -2030, Indonesia

Ahmad Sabirin

Institute for Climate Law and Sustainable Policy, Indonesia

Syaqila Binte Suzaini

The Singapore Institute of Management, Singapore

ABSTRACT: In recent years, public confidence in the Indonesian judiciary has continued to decline due to repeated cases involving judicial corruption, abuse of authority, and violations of the judicial code of ethics. This condition highlights the need for a stronger and more independent supervisory mechanism capable of ensuring accountability, transparency, and integrity within the judicial system. This paper examines the urgency of judicial supervision reform in Indonesia through strengthening the duties and functions of the Supreme Court as an external supervisory institution for judicial power. The rise of ethical violations, allegations of bribery, and independent behaviour by some judges threatens the principles of the rule of law and the supremacy of the constitution. This research uses a normative juridical method. The findings show that the authority of the Supreme Court, which is limited to the recommendatory function, without the right to impose direct sanctions or conduct investigations into alleged criminal acts by judges, causes institutional disharmony, legal uncertainty, and a low level of implementation of the Supreme Court's recommendations. The design of the authority of the Supreme Court in the current positive legal framework is not adequate to answer the demands of judicial reform and the restoration of public trust. The proposal includes expanding the authority of the Constitutional Court to impose administrative sanctions directly, including the possibility of dismissing judges in cases of serious ethical violations, as well as granting limited investigative authority for violations related to the code of ethics and the integrity of judges. This strengthening is important to avoid the dominance of the Supreme Court's internal supervision, which has the potential to give birth to judicial tyranny, as well as to affirm the position of the Supreme Court as an effective auxiliary organ in ensuring the accountability, independence, and professionalism of judges in the Indonesian judicial system.

KEYWORDS: Auxiliary Organ; Court Reform; Judge Supervision; Judicial Commission.



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* Corresponding author's e-mail: anitakadir@yahoo.com

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I. INTRODUCTION

The State of Indonesia is a State of Law, whose existence is constitutionally guaranteed in Article 1 Paragraph (3) of the 1945 Constitution. As a matter of Law, every citizen in the life of the nation and state is obliged to submit to and obey the applicable legal rules.¹ The law is not merely a formal rule, but a fundamental instrument to achieve justice, legal certainty, and benefits for the entire community. The purpose of the law is not only to provide formal justice for the parties to the dispute, but also to ensure the creation of a balance between the demands of justice and legal certainty. Thus, the law plays a role not only as a guideline of behaviour but also as a mechanism to ensure social justice, prevent abuse of power, and maintain public order.²

However, the reality on the ground shows that the level of public trust in the integrity of the judiciary in Indonesia is declining. This phenomenon is reflected in surveys conducted by various institutions, such as the public perception of corruption in the legal and judicial sectors, which is still quite high.³ The level of public trust in the judiciary is 75.2% in January 2024.⁴

¹ AP Edi Atmaja et al, "Supreme Audit Institution Recommendations and the Legal System: The Case of Indonesia" (2023) Journal Accounting, Economics, and Law : A Convivium.

² Lego Karjoko, Abdul Kadir Jaelani & Ravi Danendra, "Legal Inconsistency on the Right to Build: Investment, Agrarian Rights, and Constitution" (2025) 3:2 Journal of Sustainable Development and Regulatory Issues (JSDERI) 324–346.

³ M Yakub Aiyub Kadir, Najwa Shafiya & Eka Kurniasari, "Regulating Political Funding in Southeast Asia: A Comparative Legal Analysis of Transparency and Accountability in Malaysia and Indonesia" (2025) Journal of Humanity and Social Justice 178–200.

⁴ Adelia Yuliana et al, "Analisis Tingkat Kepercayaan Publik Terhadap Mahkamah Konstitusi Pasca Putusan Nomor 90/PUU-XXI/2023" (2024) 3:2 Jurnal Hukum Statuta 74–91.

Only the Prosecutor's Office experienced an increase in public trust to 76.2%,⁵ while other law enforcement agencies tended to decrease.

One of the factors that causes the decline in public trust is the existence of corrupt practices, collusion, and nepotism involving law enforcement officials, including judges, prosecutors, and police. It is not uncommon to hear of cases where court decisions are influenced by bribery or personal proximity, so that parties with access or financial power can manipulate the judicial process for their own benefit. This condition causes a sense of apathy and distrust of the public in the legal system, which ultimately threatens the principles of justice, legal certainty, and the usefulness of the law as the foundation of the Indonesian Rule of Law.⁶

This negative phenomenon not only damages the image of the judiciary but also has an impact on the overall legitimacy of the law. Many people feel that the law does not apply equally to everyone, so the perception of injustice is increasingly entrenched. Various negative news reports, public opinion, and discussions on social media about corruption and ethical violations in the judiciary further strengthen the notion that Indonesian legal institutions are facing a crisis of trust. This condition raises urgent demands for the state to carry out substantive judicial reforms, not only in the form of administrative or structural changes, but also reforms in the legal culture that emphasise integrity, transparency, and accountability.

One of the important steps in judicial reform efforts is the establishment of the Judicial Commission (KY). The Constitutional Court was formed as a state institution that is outside the jurisdiction of the judiciary, but has the authority to enter the realm of judicial power to maintain the integrity, honour, and dignity of judges. The background of the establishment of the Judicial Commission is closely related to efforts to strengthen the system of *checks and balances* in law enforcement, as well as to respond to public

⁵ Waluya Rachmat Djati, "Peran Kejaksaan Dalam Pengawasan Aliran Kepercayaan Dan Keagamaan Masyarakat (Studi Pada Kejaksaan Negeri Tulang Bawang)" (2025).

⁶ Achmad Hariri, Satria Unggul Wicaksana & Samsul Arifin, "A Critical Study of Legal Positivism As a Legal System in a Pluralist Country" (2022) *KnE Social Sciences* 563–572.

criticism of weak internal supervision of judges.⁷ The existence of the Judicial Commission is regulated in Article 24B of the 1945 Constitution of the Republic of Indonesia, which emphasises that the Judicial Commission has the function of maintaining the honour, dignity, and independence of judges.⁸

KY has several strategic authorities. First, this institution has the right to propose candidates for Supreme Court justices to the President, who are then submitted to the Supreme Court (MA). Second, the KY is in charge of establishing a code of ethics and code of conduct for judges, which serve as a reference for all judges in carrying out their obligations. Third, the KY has the authority to enforce the implementation of the code of ethics through a mechanism of supervision, investigation, and recommendation of sanctions if violations are found. This authority is implemented through Law of the Republic of Indonesia Number 22 of 2004 concerning the Judicial Commission and Law Number 18 of 2011 on Amendments to Law Number 22 of 2004.

Despite having significant authority, the effectiveness of KY in practice is still a concern. Public data shows that the number of cases of violations of the judge's code of ethics followed up by the KY is relatively low compared to the number of reports received. One of the main obstacles is the limited authority of KY.⁹ This institution can only provide sanctions recommendations to the Supreme Court or the Honorary Council of Judges; The sanctions are not final and depend on the Supreme Court's decision. In addition, the KY does not have the authority to investigate if a judge commits a criminal offence, so there is a loophole that irresponsible parties can exploit. The overlap of authority between the Judicial Commission and the Supreme Court, as well as limited access to

⁷ Muhammad Imam Nasef & Ahmad Sabirin, "Liaison of The Judicial Commission: A Bridge of Justice For The Regions" (2024) 2:1 Konferensi Nasional Asosiasi Pengajar Hukum Tata Negara Dan Hukum Administrasi Negara 27–72.

⁸ Muhammad Fauzan, "Juridical Problematic on Supervision of Judges in the Constitutional System of Republic of Indonesia" (2016) 16:2 Jurnal Dinamika Hukum 171–178.

⁹ Ibid.

information from the courts under it, further weakens the role of the Judicial Commission in upholding judicial integrity.¹⁰

Another phenomenon that adds complexity is that there are still violations of the code of ethics committed by judges, both in the form of accepting bribes, conflicts of interest, and behaviour that is detrimental to public trust. Cases that had been in the public spotlight, such as allegations of bribery in some instances in high courts, show that the code of ethics set by the Judicial Commission has not fully become a guideline that all judges adhere to. This raises critical questions about the extent to which the Judicial Commission is able to function as an effective independent supervisor and free from interference by any party.

Public distrust of the judiciary requires the state to carry out more comprehensive reforms, both in terms of institutions and legal culture. This reform not only targets the judiciary, but also must build a clear, transparent, and accountable supervisory mechanism. In this context, the Judicial Commission should be able to act as a guardian of the integrity of judges, ensure that any violations of the code of ethics are followed up decisively, and establish a system that can prevent corrupt and collusive practices.¹¹ The success of the Judicial Commission in carrying out this role will have a positive impact on the image of the judiciary, increase public trust, and strengthen the principles of the Rule of Law in Indonesia.

The novelty of this research lies in its proposal to reimagine the supervisory model of judges in Indonesia through strengthening the authority of the Judicial Commission beyond its current recommendatory function. Unlike previous studies that mainly discuss judicial ethics supervision in a normative and descriptive manner, this research offers a reform-oriented framework by proposing limited investigative authority and direct sanctioning powers for the Judicial Commission in cases of serious ethical violations. Furthermore, this study emphasises the importance of balancing

¹⁰ Hilmi Ardani Nasution, "Penguatan Fungsi Komisi Yudisial Dalam Amandemen Undang-Undang Dasar Negara Republik Indonesia Tahun 1945" (2020) 5:1 Jurnal Magister Ilmu Hukum 13–21.

¹¹ Muhammad Hasan Basri, "Implikasi Putusan Mahkamah Konstitusi Terhadap Komisi Yudisial Dalam Pengawasan Etik Hakim: Studi Kasus Putusan Mahkamah Konstitusi 005/PUU-IV/2006" (2021) 6:3 Lex Renaissance 520–537.

judicial independence with accountability to prevent excessive dominance of internal judicial supervision and to strengthen public trust in the Indonesian judicial system.

Against this background, this paper examines the extent to which the Judicial Commission is able to strengthen the system of supervision of judges, identify obstacles that reduce its effectiveness, and explore strategies that can be taken to ensure its optimal role. The focus of this research also includes an evaluation of the working relationship between the Judicial Commission and the Supreme Court, the effectiveness of the code of ethics applied, and the public's perception of judicial integrity. This approach is important because the effectiveness of supervisory institutions such as the Judicial Commission is not only measured by the rule of law it has, but also by the ability of the institution to realise public trust and uphold the principles of fair and transparent justice.

II. METHODS

This paper used a normative juridical approach that emphasises the assessment of positive legal norms that regulate the authority and supervisory function of judges by the Judicial Commission.¹² This approach aims to identify how the standards in Law Number 22 of 2004 on the Judicial Commission and its amendments and implementing regulations are interpreted and applied in the context of judicial supervision reform. Primary legal materials in the form of laws and regulations, Constitutional Court decisions, and official documents of judicial institutions are the main sources of analysis. This research also utilises secondary legal materials such as literature, scientific journals, previous research results, and the views of legal experts to gain a comprehensive understanding of the concept of judicial supervision reform. The data was analysed qualitatively by emphasising a systematic review of the principles of accountability and independence of judicial power, as well as its relevance to the constitutional duties of the Judicial Commission as an organ to supervise the behaviour of

¹² Junita Kaseme Tan et al, *Comparative Legal Research: Consumer Legal Term In The Article 1 Number 2, Law No. 8, 1999–Indonesia VS. Chapter I Article 2, Law No. 8078–Brazil* (EDP Sciences, 2018).

judges.¹³ In addition, this research is descriptive-analytical, namely describing the actual conditions of judges' supervision, then analysing it to find weaknesses and challenges in the implementation of the functions of the Judicial Commission in the Indonesian judicial system. The results of the analysis are expected to provide normative and institutional recommendations to strengthen the effectiveness of judicial supervision reform while maintaining a balance between judicial independence and the principle of public accountability.

III. THE ROLE OF JUDGES AND THE IMPORTANCE OF INDEPENDENCE IN THE JUDICIARY

A judge is a law enforcer who is trusted as a representative of God. A judge has freedom and independence, which is an independence in deciding a case, but the game in deciding a case is growing day by day.¹⁴ The enactment of Law Number 22 of 2004 on the Judicial Commission, which is a mandate of the Third Amendment to the Constitution, on August 13, 2004, where Article 24 B paragraph 1 (one) regulates the duties and authority of the Judicial Commission.¹⁵ The purpose of the responsibilities and authorities of the Judicial Commission is to supervise and control the Supreme Court over its judges, especially related to the implementation of judicial duties, avoid political interference in the determination of the supreme court judge (or in the recruitment process of judges as a whole) and carry out the function of external supervision over the behavior of judges in the administration of justice as a form of checks and balances.¹⁶

¹³ R Roswandi, A Mashdurohatun & SE Wahyuningsih, "Legal Reconstruction of Absentee Land Registration Arrangements through Complete Systematic Land Registration Based on Justice Value" (2023) 6:02 *Scholars International Journal of Law Crime Justice* 108–114.

¹⁴ Qodariah Barkah, Suraya Sintang & Leanne Morin, "Negotiating Islamic Law and State Norms in Child Marriage Practices in Coastal Indonesia" (2025) 2:1 *Antmind Review Journal Sharia Legal Ethics* 43–55.

¹⁵ Mohammad Ibrahim, "The judicialisation of discrimination in the Indonesian constitutional court" (2022) 22:2 *International Journal Discrimination and the Law* 125–151.

¹⁶ Abdurrachman Satrio, "Restoring Indonesia's (Un) Constitutional Constitution: Soepomo's Authoritarian Constitution" (2023) 24:2 *German Law Journal* 402–416.

Supervision of judges is a duty and authority of the Judicial Commission, where supervision is urgently needed because there are still many judges who do not show an independent and impartial attitude in handling and deciding cases. The authority of the Judicial Commission to maintain and uphold the honour, dignity, and behaviour of judges can be carried out effectively and well, which requires the existence of ethical guidelines and judges' behaviour. Where in maintaining and upholding the honour of judges. The Judicial Commission must see whether the judge's decision is in accordance with the judge's honour, as well as the sense of justice that arises from the community.¹⁷

Meanwhile, in maintaining and upholding the dignity of judges, the Judicial Commission must supervise whether the judge's profession has been carried out in accordance with the guidelines of ethics and behaviour of judges, and obtain public recognition, as well as supervise and maintain that judges remain in their human nature, have a conscience, while maintaining their self-esteem, by not committing reprehensible acts. The Chairman of the Judicial Commission establishes the code of ethics and code of conduct for judges together with the Chief Justice of the Supreme Court.¹⁸ They maintain and enforce the implementation of the code of ethics and code of conduct for judges.

Judges in the judicial power system have a very large role in terms of justice. In a judge's decision, a person's property rights can be transferred, a person's freedom can be revoked, the government's arbitrary actions against the community can be declared invalid, and even a judge, through his decision, can take away a person's right to life. The authority possessed by judges is very large, so that judges must have high responsibilities, both horizontally and vertically, where responsibility to fellow human beings and commitment to God Almighty. As a profession, the code of ethics of judges is regulated based on a joint decree between the Chief Justice of the Supreme Court of the Republic of Indonesia and the Chairman of the Judicial Commission of the Republic of Indonesia, number

¹⁷ Bambang Sutiyo, "Penguatan Peran Komisi Yudisial dalam Penegakan Hukum di Indonesia" (2011) 18:2 *Jurnal Hukum Ius Quia Iustum* 266–284.

¹⁸ Yoshua Alexander et al, "Kedudukan Penghubung Komisi Yudisial Wilayah Sumatera Selatan Dalam Struktur Ketatanegaraan RI" (2019) *Simbur Cahaya* 77–97.

047/KMA/SKB/IV/2009-02/SKB/P.KY/IV/2009 on April 8, 2009, concerning the Code of Ethics and Code of Conduct for Judges.¹⁹

It is also regulated in the Joint Regulation of the Supreme Court of the Republic of Indonesia and the Judicial Commission of the Republic of Indonesia, number 02/PB/MA/IX/2012 and number 02/PB/P.KY/09/2012 on Guidelines for the Enforcement of the Code of Ethics and Guidelines for Judges' Conduct.²⁰ The code of ethics aims to foster, shape character and supervise the behaviour of judges in carrying out their duties so that they can encourage public trust in the declining judicial institutions, as stipulated in the 1945 Constitution of the Republic of Indonesia. However, even though the Code of Ethics and Judicial Conduct Guidelines have been established and supervised by the Judicial Commission in Indonesia, various violations by judges continue to occur in practice. Several major cases demonstrate that ethical misconduct within the judiciary remains a serious issue. For example, in 2022, Supreme Court Justice Sudrajad Dimiyati was named a suspect in a bribery case related to the handling of cases at the Supreme Court, which revealed the existence of judicial mafia practices within the judicial institution. In addition, former Constitutional Court Chief Justice Akil Mochtar was convicted in a corruption case involving bribery in regional election dispute settlements, while in 2023, Constitutional Court Chief Justice Anwar Usman was found to have violated the judicial code of ethics due to a conflict of interest in the decision regarding the presidential and vice-presidential age limit. Data from the Judicial Commission also show a consistently high number of public complaints regarding judges' ethical violations each year, indicating that the existing supervisory mechanism has not been fully effective in maintaining judicial integrity and professionalism in Indonesia.²¹

¹⁹ Yani Andriyani, "Implementasi Kode Etik Hakim dalam Memeriksa, Mengadili dan Memutus Perkara" (2019) 10:01 Logika: Jurnal Penelitian Universitas Kuningan 13–30.

²⁰ Siti Kotijah et al, "Problematics Of The Oversight Of The Code Of Conduct And The Code Of Judgment Between The Judicial Commission And The Supreme Court" (2023) 5:2 Awang Long Law Review 661–668.

²¹ Edi Setiadi, "Hubungan Ideal Komisi Yudisial dan Mahkamah Agung" (2021) 5:2 Jurnal Wawasan Yuridika 161–176.

A good judge is one who has a professional spirit, is experienced in the legal field, fair, honest, has a good personality, and is obliged to maintain the independence of the judiciary. To achieve a good judge, institutions that have the authority to recruit and select prospective judges must carry out their duties based on the principles of participation, transparency, accountability, right man in the right place and objectivity. In carrying out their duties and authority, judges must be able to maintain and improve their personal knowledge, skills and character so that they can carry out their duties properly.²² Prioritise his judicial obligations over other responsibilities and avoid mistakes in making decisions or ignoring existing facts. As a state official who has the duty to uphold law and justice, the position of judge is obtained through strict recruitment and selection.

Thus, in exercising judicial power, a judge is required to maintain and uphold dignity to enforce the law. Therefore, in carrying out their duties, judges need supervision. Supervision of the performance of judges is carried out by two institutions, namely internal supervision by the Supreme Court and external supervision by the Judicial Commission. The Supreme Court holds the highest power in the field of judicial oversight of judges in the performance of their duties at all levels of the judiciary. The authority possessed by the Supreme Court is a judicial technical aspect. The Supreme Court has the authority to take actions such as giving warnings or reprimands that are deemed necessary, asking for information about judicial technicalities carried out by judges, giving instructions and others.²³

The Judicial Commission, according to the Indonesian constitution, is regulated in the 1945 Constitution, where the beginning of the formation of the Judicial Commission was as an institution that helps carry out internal supervision from the Supreme Court because it was felt to be less than optimal. If previously the supervision was carried out by its own

²² Muhammad Alfariji Nasution, "Analisis Yuridis Tentang Pengawasan Hakim Oleh Komisi Yudisial Dalam Prespektif Undang Undang Dasar Negara Republik Indonesia Tahun 1945 (Studi Putusan Mahkamah Konstitusi Nomor 005/PUU-IV/2006)" (2022).

²³ Oddie Moch Ikhsan with the collaboration of Habib Muhsin & Dyah Adriantini, *Efektifitas Pengawasan Hakim Oleh Komisi Yudisial* (masters, Skripsi, Universitas Muhammadiyah Magelang, 2017).

internal institution, namely the Supreme Court, now it is carried out together with the Judicial Commission.²⁴ The Judicial Commission, as an institution, was born from the demand for legal reform. And is authorized to carry out judicial reform to strive to uphold honor and dignity and maintain the behavior of judges in carrying out their duties, the judicial commission seeks to take progressive and proactive steps. The position of the Judicial Commission is an auxiliary organ for the supervision of judicial power. It is on an equal footing with other state institutions, such as the President, the House of Representatives and state institutions. The Judicial Commission has authority related to judicial power, but is not an actor of judicial power.²⁵

The external supervision of judges carried out by the Judicial Commission aims to ensure that the one-stop supervision carried out by the Supreme Court does not become a judicial tyranny, the existence of supervision carried out by the Judicial Commission independently involving all elements of society because various factors cause the practice of abuse of authority in judicial institutions, the ineffectiveness of internal (functional) supervision in the judiciary, such as the spirit of defending fellow corps (*esprit de corps*) and the absence of a real will from the leadership of the judiciary to follow up on the results of internal supervision of judges. These things create opportunities for judges who are proven to have violated the law and code of ethics to get a "pardon" from the head of the relevant judiciary so that they are not subject to appropriate sanctions.²⁶

The Judicial Commission of the Republic of Indonesia, in carrying out its functions as an external supervisor, is regulated in Article 34, paragraph (3) of Law Number 4 of 2004 concerning judicial power, as an external supervisor of the supreme court and judges in the judiciary in all judicial environments under the Supreme Court and judges of the Constitutional

²⁴ Farid Nur Isjayanto & Nurimansyah Setivia Bakti, "Kewenangan Komisi Yudisial (Studi Perbandingan Komisi Yudisial Republik Indonesia dan Consiglio Superiore Della Magistratura, Italia)" (2025) 10:1 *Islam Law Journal Siyasa* 48–65.

²⁵ Muhammad Mas Davit Herman Rudiyanah, "Pelanggaran etika dan integritas hakim: Tinjauan terhadap efektivitas Komisi Yudisial dan Badan Pengawas Yudisial" (2024) 1:2 *Abdurrauf Law and Sharia* 139–163.

²⁶ Jawahir Thontowi, "Kedudukan dan Fungsi Komisi Yudisial Republik Indonesia" (2011) 18:2 *Jurnal Hukum Ius Quia Iustum* 285–302.

Court, including preventive supervision and repressive supervision as described in the provisions of article 24B paragraph (1) of the Constitution of the Republic of Indonesia which is implemented in article 13 letter b, article 20, article 21, Article 22 and Article 23 of Law number 22 of 2004 on the Judicial Commission.

The function of the Judicial Commission as an external supervisor plays a very important role. It aims to ensure that judges, in carrying out their duties and responsibilities, are strictly in accordance with the applicable laws and regulations, the truth and sense of justice of the community, and uphold the code of ethics of the legal profession. If the judge carries out his duties properly and correctly, legal certainty, justice, and honor, as well as the behavior of the judge, can be realized. External supervision of judges is intended so that citizens outside the official structure of parliamentary institutions can be involved in the process of appointment, performance appraisal and possible dismissal of judges. The existence of the Judicial Commission is a state institution whose existence is constitutional. The Judicial Commission is an independent state institution and, in the exercise of its authority, is free from interference or influence from other powers and is guaranteed by the provisions of Article 24B of the 1945 Constitution.

In carrying out its duties, the Judicial Commission verifies a report, examines alleged violations, summons and requests information from judges who are suspected of violating the guidelines of honor, dignity and behavior of judges for examination. Summoning and asking for information from witnesses and concluding the results of the examination. If the witness does not comply with the summons three times in a row without a valid reason, the Judicial Commission may summon the witness forcibly in accordance with the applicable laws and regulations. The examination conducted by the Judicial Commission is an examination of alleged violations of the code of ethics and the judge's code of conduct by

asking for clarification on the judge who is suspected of committing violations.²⁷

If the alleged violation is proven, the Judicial Commission will recommend or propose the imposition of sanctions on judges who are proven to have committed violations to the Supreme Court in the form of light sanctions, such as verbal reprimands, written reprimands or written statements of dissatisfaction.²⁸ Moderate sanctions are in the form of a delay in periodic salary increases for a maximum of one year, a reduction in salary by one periodic salary increase for a maximum of one year, a delay in promotion for a maximum of one year or non-hammer judges for a maximum of six months.²⁹ Severe sanctions are in the form of exemption from structural positions, non-hammer judges for more than six months to two years, temporary dismissal, permanent dismissal with the right to retire or permanent dismissal without respect. The Supreme Court imposes sanctions recommended or proposed by the judicial commission no later than sixty days from the date the proposal is received.

The Judicial Commission only has the authority to propose or provide recommendations or proposals to impose sanctions on a judge to the leadership of the Supreme Court. The Judicial Commission submits a recommendation or proposal for the imposition of administrative sanctions to the chairman of the Supreme Court, and then the chief justice of the Supreme Court will not directly implement the recommendation for imposing the sentence. The Judicial Commission does not have the authority to impose its own sentences on judges. In addition, the Judicial Commission is only authorized to examine cases involving judges, limited to the behavior of judges who have been proven to violate the code of ethics.

²⁷ Ousu Mendy & Ebrima Sarr, "The Judiciary in Governance: Understanding the Juridical Nature and Function of the Constitutional Court of Indonesia" (2025) 2:1 *Journal Indonesian Constitutional Law* 1–22.

²⁸ Usman Rasyid et al, "Reformulation of the Authority of Judicial Commission: Safeguarding the Future of Indonesian Judicial Power" (2023) 5:2 *Jambura Law Review* 386–413.

²⁹ Rommy Patra et al, "The Existence Of The Judicial Commission In Supervising Judges In Indonesia" (2024) 19:1 *Pranata Hukum* 1–15.

If a judge is found to have committed a criminal act, the Judicial Commission does not have the authority to conduct an investigation. The Judicial Commission must maintain and enforce the honor of judges not to leak public complaints against alleged violations of the Code of Ethics and Code of Conduct for Judges by the supreme judge, because this is a violation of the ethics of the implementation of the supervisory function of the Judicial Commission.³⁰

With reports from the public that have come to the Judicial Commission regarding the problem of judges being supervised because the judge is suspected of committing violations, the Judicial Commission will carry out its function to follow up on the report.³¹ However, what happened after being followed up, many recommendations or proposals issued by the Judicial Commission were not implemented by the Supreme Court, because according to the Supreme Court, there are several cases that are not under the authority of the Judicial Commission.³² This makes there a difference of opinion between the Judicial Commission and the Supreme Court, where the existing Laws and Regulations seem to be ignored, making there no legal certainty in the supervision of judges and the Judicial Commission does not have any power in taking a judge's supervision action.

The non-regulation of administrative sanctions in the Law that regulates whether the recommendations or proposals for sanctions given by the Judicial Commission are not implemented by the Supreme Court, resulting in legal uncertainty and can cause public distrust in the performance of the Supreme Court and the judiciary in the supervision of judges. The initial goal of establishing the Judicial Commission, which is expected to improve the performance of the Indonesian judiciary and support the realization of

³⁰ Zamroni Faizal Abdi & Chintya Khaerunnisa, “Revitalization of Supervision of the Judicial Commission as Strengthening Judicial Institutions in Maintaining the Independence and Integrity of Judges” (2024) 3:3 *Justices: Journal of Law* 184–196.

³¹ I Gede Sujana et al, “Keterbatasan Komisi Yudisial dalam menjalankan tugas dan kewenangan berdasarkan Undang-Undang Dasar 1945” (2025) 3:1 *IJOLARES Indonesian Journal of Law Research* 11–17.

³² Agnes Gunawan Putri Mega Wijaya & Ergina Faralita, “Supervisory Role of The Republic of Indonesia Judicial Commission Liaison Office in The Province South Kalimantan” (2023) 1:3 *Interdisciplinary Explorations in Research Journal* 242–254.

an independent judicial power to uphold law and justice, has not been able to run as aspired and mandated by the law. With there still being many proposals or recommendations for sanctions that are not by the Supreme Court, the Judicial Commission, as an institution that has the authority to supervise Judges, does not seem to have the power.³³

The existence of differences of opinion in giving sanctions to Judges has actually been expressly and clearly regulated in Law No. 18 of 2011, Article 22E and Article 2 of joint regulation No.04/PB/MA/IX/2012-04/PB/P.KY/09/2012.³⁴ Where the purpose and purpose of making the joint regulation is that if there is a difference of opinion between the Judicial Commission and the Supreme Court regarding the proposal for the imposition of light, moderate and severe sentences other than as mentioned in article 22D paragraph (2) letter c number 4) and number 5) a joint examination is carried out between the Judicial Commission and the Supreme Court against the judge concerned. Meanwhile, severe punishment is a punishment in the form of dismissal as per article 22D paragraph (2) letter c number 4) and number 5) proposed by the Judicial Commission to the Honorary Council of Judges.

Seeing this reality, in order for the role of the Judicial Commission to have more power, the Judicial Commission should be given more or additional authority, namely the authority to impose administrative sanctions to supervise the judge's code of ethics. In addition, the Judicial Commission should be given the authority to dismiss judges outright if proven to have violated the judge's code of ethics.

Dismissing his position as a judge, where the authority must be supported by the legal apparatus, so that an article of authority to conduct an investigation by the Judicial Commission against judges who are suspected of committing violations is added. As a result of not having the authority of

³³ Joey Giancello Weo, Yohanes G Tuba Helan & Cyrilius WT Lamataro, "Penguatan Wewenang Komisi Yudisial dalam Menjaga Kehormatan dan Martabat Hakim Ditinjau dari Undang-Undang Nomor 22 Tahun 2004 tentang Komisi Yudisial" (2024) 2:1 *Petitum Law Journal* 15–25.

³⁴ Suparman Marzuki & Mahrus Ali, "Judicial Ethics Violations: Legal Aspect And The Role Of Judicial Supervision." (2024) 6:3 *Corporate Law & Governance Review*.

the Judicial Commission to impose its own sanctions on judges who violate the code of ethics and 13 Article 22D of Law No. 18 of 2011 concerning Amendments to Law No. 22 of 2004 on the Judicial Commission. The lack of authority of the Judicial Commission to investigate judges who are suspected of committing a violation makes the role of the Judicial Commission less than optimal in supervising the behavior of judges, both for breaches of the code of ethics and guidelines for judges' conduct.

IV. THE ROLE AND AUTHORITY OF THE JUDICIAL COMMISSION IN SUPERVISION OF JUDGES

The enactment of Law No. 22 of 2004 on the Judicial Commission on August 13, 2004, is part of the mandate of the Third Amendment to the 1945 Constitution, which affirms the need for an external supervision mechanism for judges in Indonesia. The formation of the KY was motivated by the condition of judicial practice in Indonesia, which shows that there are still deviations from the principles of independence and impartiality of judges.³⁵ Many cases show political intervention, collusion, or judges' behavior that is not in accordance with the principles of justice, thus raising public doubts about the credibility of the judiciary. In this context, the Supreme Court is present as a constitutional institution to fill the oversight gap that is not fully addressed by the internal mechanisms of the Supreme Court, while strengthening the principle of checks and balances in the judicial power system.³⁶

Article 24B paragraph (1) of the 1945 Constitution emphasizes that the KY has the duty and authority to carry out external supervision of judges, especially related to the implementation of judicial duties, as well as ensuring that the recruitment and appointment process of judges is not

³⁵ Titik TriwulanTutik, "Pengawasan Hakim Konstitusi Dalam Sistem Pengawasan Hakim Menurut Undang-Undang Dasar Negara RI 1945" (2012) 12:2 *Jurnal Dinamika Hukum* 295–311.

³⁶ Despan Heryansyah, "Urgensi Perluasan Kewenangan Komisi Yudisial dalam Pengawasan Terhadap Hakim Mahkamah Konstitusi" (2022) 1:2 *Staatsrecht: Jurnal Hukum Kenegaraan Dan Politik Islam*.

tainted by political intervention.³⁷ This authority is not only preventive, but also repressive, to maintain the honor, dignity, and behavior of judges so that they remain in accordance with the standards of the legal profession. The presence of the KY is important because there are still many judges who have not shown an independent and impartial attitude in deciding cases, so external supervision is an important instrument to uphold the integrity of the judiciary.

The authority of the KY includes the enforcement of the code of ethics and guidelines for judges' conduct, which aims to assess and guide the behavior of judges in every aspect of the implementation of their duties. In terms of maintaining the judge's honor, KY assesses whether the judge's decision reflects the integrity, professionalism, and sense of justice expected by the community. This means that every decision must be in line with applicable legal norms and moral values, without being influenced by political, economic, or personal pressure. Meanwhile, in maintaining the nobility of dignity, the KY supervises that the judge's profession is carried out according to ethical guidelines, obtains public recognition, and still upholds human values and the conscience of judges. Thus, despicable behavior or abuse of power can be avoided, so that the dignity of judges is maintained and public trust in the judiciary increases.³⁸

The process of determining the code of ethics and code of conduct is carried out by the Chairman of the Supreme Court together with the Chief Justice of the Supreme Court, who is then responsible for maintaining implementation in judicial practice. This function is very strategic so that judges carry out their duties in accordance with legal standards, principles of justice, and legal professional guidelines. KY acts as an external supervisor who is independent, free from the intervention of other powers, so that the community can play a role in supervision, starting from the

³⁷ Ismail Rumadan, "Membangun Hubungan Harmonis Dalam Pelaksanaan Fungsi Pengawasan Hakim Oleh Mahkamah Agung Dan Komisi Yudisial Dalam Rangka Menegakkan Kehormatan, Keluhuran Dan Martabat Hakim" (2016) 5:2 Jurnal Hukum Dan Peradilan 209–226.

³⁸ Indra Utama Tanjung, "Eksistensi Komisi Yudisial dalam Pengawasan Hakim (Tinjauan Yuridis dan Hukum Islam terhadap Undang-Undang No. 18 tahun 2011)" (2021) 15:2 Al-Fikru Jurnal Ilmiah 65–77.

process of appointing judges, performance appraisals, and dismissal in the event of violations. The position of the KY is constitutional and equivalent to other state institutions, such as the President or the House of Representatives. However, its role is an auxiliary organ, which is a supporting institution in the supervision of judicial power.

External supervision by the KY has two main functions: preventive and repressive. The preventive function aims to prevent violations of the code of ethics or unprofessional behavior through education, socialization of the code of ethics, technical guidance, and coaching for judges.³⁹ The repressive function is applied when there is an alleged violation, which includes verifying public reports, examining judges and witnesses, and drafting sanctions recommendations. The sanctions proposed by the KY are recommendations to the Supreme Court and are divided into three categories: light, medium, and severe. Light sanctions are in the form of verbal or written reprimands, moderate sanctions include salary deferral, demotion, or temporary non-hammer placement, while severe sanctions include temporary or permanent dismissal, with or without pension rights.

Although the authority of the Supreme Court is constitutionally regulated, in practice, many recommendations are not carried out by the Supreme Court. This situation creates legal uncertainty and lowers public trust in the justice system. The non-implementation of recommendations is often caused by differences in interpretation between the KY and the Supreme Court regarding the authority and procedure for imposing sanctions. Although Law No. 18 of 2011 and the Joint Regulation of MA-KY of 2012 have regulated the mechanism for examining and resolving disagreements, implementation obstacles still occur in the field. This legal uncertainty suggests that although the Supreme Court has constitutional authority, its effectiveness is still limited by interaction with the other branches of government and the absence of directly binding administrative sanctions.

³⁹ I Gusti Ayu Adisya Putri Maheswari & AA Ngurah Oka Yudistira Darmadi, "Peran Komisi Yudisial Dalam Menjaga Integritas Hakim Melalui Sistem Check And Balances Kekuasaan Kehakiman Indonesia" (2025) 3:10 *Jurnal Media Akademik (JMA)*.

In addition, external supervision of the KY is also important to prevent judicial tyranny. Without external supervision, the Supreme Court's internal oversight has the potential to be biased, for example, due to corps solidarity, conflicts of interest, or a lack of courage from the leadership to take action against judges who commit violations. KY is here to balance this, involve the community in supervision, and ensure that every breach of the code of ethics can be followed up on objectively. Public reports are one of the important instruments for the KY to identify alleged violations by judges, even though the KY itself does not have the authority to investigate criminal acts committed by judges.

Facing implementation obstacles and limited authority, several reform steps are needed to make the KY more effective. First, the KY should be given the authority to impose direct administrative sanctions on judges who are proven to have violated the code of ethics, so that recommendations are no longer only suggestive. Second, the KY needs to be given the authority to dismiss judges directly if proven to have committed serious violations, with the support of clear regulations. Third, the KY should have the authority to independently investigate alleged violations, so that supervision can run more thoroughly, effectively, and not depend on the approval of the Supreme Court.

V. CHALLENGES AND EFFORTS TO OPTIMIZE THE FUNCTIONS OF THE JUDICIAL COMMISSION

Although the Judicial Commission (KY) has been established as an external supervisory institution to maintain the independence and integrity of judges in Indonesia, its effectiveness still faces significant obstacles. One of the main obstacles is that the Supreme Court does not always implement the recommendations of the KY. This phenomenon creates legal uncertainty and has the potential to reduce public trust in the judiciary. Differences in interpretation regarding authority, technical considerations, or administrative reasons may cause non-implementation of recommendations. As a result, the public often questions the credibility of

external oversight and considers that judicial institutions are less responsive to violations of the code of ethics committed by judges.⁴⁰

The second obstacle is that the KY does not have the authority to investigate alleged criminal violations committed by judges. This limitation makes supervision of serious violations not optimal, because if the judge is suspected of committing a criminal act, the KY can only submit a report or recommendation to the Supreme Court, without having the capacity to follow up directly.⁴¹ This situation limits the effectiveness of external supervision, and the potential for abuse of authority by judges with strategic positions remains high. In practice, some cases show that alleged criminal violations by judges are often delayed or not followed up seriously due to the limited authority of the KY.⁴²

The third obstacle is the difference of opinion between the KY and the Supreme Court regarding the implementation of sanctions. Although Law Number 18 of 2011 and the Joint Regulation of the Supreme Court of 2012 have regulated a joint examination mechanism in the event of a dispute, the reality on the ground shows that this coordination sometimes does not go smoothly. Differences in interpretation regarding the types of sanctions that can be imposed, the proposal process, or other technical aspects often hinder the enforcement of the code of conduct. This shows that even though the KY has constitutional authority, its implementation is still highly dependent on the attitude and decisions of the Supreme Court, so the effectiveness of supervision is not optimal.

The external supervision of the Supreme Court has a broader purpose, namely, to prevent judicial tyranny that can arise if the internal supervision of the Supreme Court is not effective. In the absence of external supervision, internal supervision has the potential to be biased due to several factors, including corps solidarity (*esprit de corps*), conflicts of

⁴⁰ Amil Shadiq, “Sinergy of The Judicial Commission and The Supreme Court in an Effort to Realize Professional Supervision of Judges” (2025) 4:2 *Golden Ratio Law Social Policy Review* 105–111.

⁴¹ Leo Kipkogei Kemboi, “The Four Governance Issues for Effective Judicial Service Commission and Judiciary” (2022) Available at SSRN 4018211.

⁴² Ujang Bahar, “Strengthening the Roles of Judicial Commission” (2018) 5:2 *Padjadjaran Jurnal Ilmu Hukum Journal of Law* .

interest, or a lack of desire by judicial leaders to follow up on the results of supervision. This creates an opportunity for judges who are proven to have committed violations to obtain "pardons" from the Supreme Court leadership, so that the sanctions that should have been imposed are often not implemented. This phenomenon certainly causes injustice and lowers public trust in the credibility of the judiciary.⁴³

To overcome these obstacles, the KY needs to be given additional authority to carry out its supervisory function more effectively. First, the KY should have the authority to impose direct administrative sanctions on judges who are proven to have violated the code of ethics. With this authority, the KY recommendation is no longer merely suggestive but has binding legal force.

Second, the KY needs to be given the authority to dismiss judges directly if proven to have committed serious violations of the code of ethics. The granting of this authority must be supported by a clear regulatory apparatus so that the dismissal process can run legally and accountably.⁴⁴ Third, the KY should have the authority to conduct an independent investigation into alleged violations, so that supervision of judges' behaviour can run comprehensively without waiting for the intervention of the Supreme Court or other institutions. This authority will increase the ability of the KY to follow up on public reports or suspected serious violations that require quick and appropriate action.

These reform measures are expected to increase judges' compliance with the code of ethics and code of conduct, while strengthening the integrity of the judiciary. With the strengthening of KY's authority, the supervision process becomes more transparent, accountable, and professional. This will prevent the abuse of authority, ensure that sanctions are imposed fairly, and foster public trust in the judiciary. In addition, effective supervision also requires judges to carry out their judicial duties in accordance with

⁴³ Sandra Sasmita, "The Importance of Enhancing the Role of the Judicial Commission in Enforcing the Code of Ethics and Guidelines for Judicial Conduct" (2025) 6:2 Jurnal Ilmu Hukum Kyadiran 26–35.

⁴⁴ Yoyon Mulyana Darusman, Elmer Micu Soriano & Bhanu Prakash Nunna, "Strengthening Judicial Commission Authority in Indonesia Judicial Power Institutions, Link to Trias Politica Theory" (2024) 24:1 Jurnal Dinamika Hukum 73–87.

applicable legal, ethical, and moral principles, so that legal certainty and a sense of justice for the community can be realised.

The strengthening of the KY is also in line with the constitutional principle of independent judicial power. The independence of judges can only be maintained if external supervision is effective, transparent, and free from interference from other parties. Thus, supervision by the KY is not just a formal mechanism, but a vital instrument to maintain the professionalism, integrity, and accountability of judges. The role of the Supreme Court in this context is as a last resort to ensure that judges do not abuse their authority, are not influenced by political or economic interests, and always prioritise the principle of justice in each decision.

In addition to legal and structural aspects, KY supervision also has important social and public dimensions. By involving the public in the oversight process, the KY increases public participation in the judicial system, so that citizens have access to report alleged violations of judges. This participatory approach not only strengthens the legitimacy of KY but also fosters public awareness of the importance of a code of ethics and professional conduct in judicial power. Through this mechanism, the community not only becomes an object of law but also an active subject of supervision, so that the role of KY becomes more effective and responsive to social dynamics.

An adequate legal and regulatory system must also support the strengthening of the authority of the KY. For example, there needs to be a rule that clearly regulates administrative sanctions for recommendations that are not implemented by the Supreme Court, so that legal uncertainty can be minimised.⁴⁵ With strong regulatory support, KY can follow up on violations without having to wait for the approval of other parties, and supervisory decisions can be implemented effectively. This is important to ensure that the initial goal of the formation of the KY, which is to

⁴⁵ Ayu Putriyana & Nur Rochaeti, "The Impact Of Enforcement Of Corruption Law By The Corruption Eradication Commission After The Ratification Of The Latest KPK Law" (2021) 21:3 Jurnal Penelitian Hukum De Jure 299.

strengthen the integrity and professionalism of the judiciary, can be achieved.⁴⁶

In fact, the strengthening and reform of the KY is expected to be able to create an effective, transparent, and accountable supervisory system, while ensuring that judges carry out their duties with professionalism, integrity, and high ethics. With optimal supervision, legal certainty, justice, honour, and judges' behaviour can be maintained consistently. In addition, the strengthening of the KY also supports the creation of an independent judiciary, trusted by the public, and able to uphold the rule of law in Indonesia.⁴⁷

The Judicial Commission is not just a formal supervisory institution, but a strategic instrument that plays an important role in building a judicial system with integrity, professionalism, and democracy.⁴⁸ Strengthening the KY through the granting of administrative authority, independent investigations, and the ability to dismiss judges directly is an important step to close the gap in abuse of power, increase judicial compliance, and restore public trust in the judicial system. With effective supervision, the independence of judges is maintained, the principles of justice are upheld, and judicial power can run in accordance with the constitutional mandate.⁴⁹

The optimisation of the Judicial Commission's functions in Indonesia continues to face various institutional and legal challenges. One of the main obstacles is the limited authority of the Judicial Commission, which is currently restricted to recommending sanctions without possessing direct enforcement power. In practice, many recommendations issued by the Judicial Commission are not fully implemented by the Supreme Court,

⁴⁶ Sujana et al, *supra* note 31.

⁴⁷ Muwahid Muwahid, Akiya Qidam Hayya & Tiara Intan Putri, "Peran Komisi Pemberantasan Korupsi Dan Kepolisian dalam Pemberantasan Tindak Pidana Korupsi di Indonesia dalam Perspektif Teori Sistem Hukum" (2021) 7:2 *Al-Jinayah: Jurnal Hukum Pidana Islam* 409–435.

⁴⁸ Sutiyo, *supra* note 17.

⁴⁹ Muhammad Mas Davit Herman Rudiyansah, "Pelanggaran Etika dan Integritas Hakim: Tinjauan Terhadap Efektivitas Komisi Yudisial dan Badan Pengawas Yudisial" (2024) 1:2 *Abdurrauf Law Sharia* 139–163.

resulting in weak external supervision of judges.⁵⁰ In addition, overlapping authority and institutional tensions between the Judicial Commission and the Supreme Court often create disharmony in the judicial oversight mechanism. Another challenge is the persistence of corruption cases, ethical violations, and abuse of authority involving judges, which indicate that the existing supervisory system has not been fully effective in ensuring judicial accountability and integrity.⁵¹

To optimise the functions of the Judicial Commission, several reform efforts are necessary. First, strengthening the legal basis of the Judicial Commission through revisions to relevant laws and regulations is important to expand its supervisory authority, including limited investigative powers and binding administrative sanctions. Second, stronger coordination mechanisms between the Judicial Commission, Supreme Court, and Constitutional Court should be established through specific implementing regulations to avoid institutional conflicts and improve the effectiveness of ethical enforcement. Third, increasing transparency, public participation, and digital-based complaint systems can support more accountable judicial supervision. Furthermore, improving the professionalism and institutional capacity of the Judicial Commission is essential to strengthen public trust and ensure that judicial oversight functions effectively in maintaining the independence, integrity, and professionalism of judges in Indonesia.

VII. CONCLUSION

Based on the above discussion, it can be concluded that the role of the Judicial Commission in supervising judges in Indonesia has not been running optimally until now because its authority is still limited to the function of supervision and providing sanctions recommendations, without having the authority to impose sanctions directly or conduct investigations on alleged more serious violations. This limitation causes the enforcement of the code of ethics and code of conduct of judges to be slow, ineffective,

⁵⁰ Farid Wajdi & Muhammad Ilham Hasanuddin, *Pengawasan Hakim dan Penegakan Kode Etik di Komisi Yudisial* (Sinar Grafika, 2022).

⁵¹ Thontowi, *supra* note 26.

and creates legal uncertainty in the relationship between the Judicial Commission and the Supreme Court.

This condition shows that the design of the authority of the Supreme Court in the current positive legal framework is not fully able to answer the needs of judicial reform, especially in maintaining the integrity, professionalism, and accountability of judges. On the other hand, the weak follow-up to the KY recommendations also has the potential to reduce public trust in the judiciary, because the public sees that ethical violations are not always responded to firmly and consistently.

Therefore, it is necessary to strengthen the authority of the Judicial Commission through the reformulation of legal norms that provide space for the KY to impose administrative sanctions directly, conduct limited investigations into alleged violations, and, in cases of serious violations, recommend or even process the dismissal of judges more effectively. This strengthening is important to balance the independence of judicial power with the principle of checks and balances, while ensuring that the honour, dignity, and behaviour of judges are truly maintained in practice. Thus, reforming the authority of the Supreme Court is a strategic step to strengthen judicial supervision, increase compliance with the code of ethics, and restore public trust in the judiciary in Indonesia.

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