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Reconstruction of the Authority of the Judicial Commission Based on Law Number 18 of 2011 Concerning Amendments to Law Number 22 of 2004 Concerning the Judicial Commission

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Abstract. *This research aims to discuss the Judicial Commission as an independent and authorized state institution in order to maintain and uphold the honor, dignity and behavior of judges. The approach to this legal research is normative legal research. The specifications for this legal research are analytical descriptive. The sources of this legal research are sources of primary legal materials and secondary legal materials. The data collection and retrieval procedure used is a literature study. The results of this research are: 1). The Judicial Commission supervises judges according to the law, namely supervision of judges regarding ethical violations and behavior of judges in the Supreme Court, including judges in the District Court, Religious Court judges, State Administrative Court judges, and Military Court judges. Starting from monitoring, receiving reports, verification and investigations, to determining whether or not a violation of the code of ethics and/or code of conduct for judges has occurred, as well as being able to take legal steps against people or groups who degrade the dignity and nobility of judges. 2) The Judicial Commission which has important duties regarding legal work in Indonesia. The Judicial Commission will pay close attention to the structure of law enforcement officials. The authority that should be given to the Judicial Commission to maintain the nobility and dignity of judges is to revise the 1945 Constitution of the Republic of Indonesia by strengthening the Judicial Commission institution. Strengthening the Judicial Commission Institution can imitate the Judicial Commission model; Netherlands and Peru.*

Keywords: *Judges; Judicial Commission; Supervision.*

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1. Introduction

New state institutions are needed to accommodate guarantees of human rights, guarantees of democracy and good governance. One of the most significant examples relating to the structuring and changes to the constitutional structure in Indonesia is the formation of independent state institutional commissions to carry out supervisory functions. Constitutionally, the formation of these commissions is something that must happen in countries that are experiencing a democratic transition.

To ensure the implementation of the concept of the rule of law in Indonesia, a new state institution was formed, namely the Judicial Commission. The birth of the Judicial Commission can give hope to the community to be able to create a judicial institution that is free from all forms of violations and abuses of the law. The Judicial Commission was formed as a positive response to efforts to improve the judiciary which was considered to be still not transparent and prone to abuse of law.

According to the 1945 Constitution of the Republic of Indonesia, Article 24B Paragraph (1), states that the Judicial Commission is an independent state institution which has the authority to invite Supreme Judges and maintain and uphold the honor, dignity and behavior of judges. In order to carry out the mandate of Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, on August 13 2004, Law Number 22 of 2004 concerning the Judicial Commission was promulgated, in order to provide a legal basis for the Judicial Commission in carry out duties and functions.

There are practices authorized by judges in judicial institutions that tend to strengthen and can damage the foundations of law enforcement and justice. If this continues, this could result in a decline in the level of public trust in judicial institutions and eliminate the authority and dignity of law enforcement institutions in Indonesia. Abuse of authority in judicial institutions is caused by several factors, namely the ineffectiveness of internal supervision by the Supreme Court regarding the nobility and dignity and behavior of judges. So it becomes very important with the birth of the Judicial Commission which plays a role in external supervision of judges in the judiciary and also because of the weak internal supervision carried out by the Supreme Court.

To be able to fulfill expectations in realizing a clean and authoritative judicial institution, the Judicial Commission must be able to be more active in supervising judges whose duties and authority are regulated in Law Number 18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission. The aim is to create law enforcement officers,

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especially judges, who are able to realize legal authority through guaranteeing legal certainty and involving various irregularities in judicial institutions, including bribery cases involving judges, which can hamper the law enforcement process. The realization of a judicial institution that is able to enforce the law fairly will be able to encourage the Indonesian state to create a strong and authoritative institution that functions to encourage progress in sustainable socio-economic development.

Based on the background above, the author can describe the problem that will be used as a reference in this research, namely: What is the authority of the Judicial Commission in maintaining the nobility and dignity of judges? How should the authority given to the Judicial Commission be in maintaining the nobility and dignity of judges in a study of Law Number 18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission?

2. Research Methods

The approach to this legal research is normative legal research or library legal research, namely research carried out by studying library materials or also called secondary data. The specifications of legal research are in line with the nature of legal science itself. The specifications of this legal research are analytical descriptive, which explains the problems related to the Supervision of Supreme Judges carried out by the Judicial Commission in order to prevent judicial mafia, then examines this supervision in maintaining the nobility and dignity of judges in the judiciary. The legal materials used are primary legal materials, namely Law Number 18 of 2011 regarding amendments to Law Number 22 of 2004 concerning the Judicial Commission and secondary legal materials, namely legal books and legal journals. The data collection and retrieval procedure used in this research is library research, namely by conducting research on shared literature that is relevant to this problem such as books, papers, articles, journals and news with the aim of searching for or obtaining theories. theories or materials relating to the regulation of supervisory authority over supreme judges by the Judicial Commission in the context of eradicating the judicial mafia. The data obtained from the research will then be analyzed using qualitative descriptive data analysis techniques, namely by providing an interpretation of the data obtained rationally and objectively.

3. Results and Discussion

3.1. Authority of the Judicial Commission in Maintaining the Nobility and Dignity of Judges

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After reform and political democratization in Indonesia with the amendment of the 1945 Constitution of the Republic of Indonesia, along with democratization that occurred, new state institutions were also formed to strengthen the constitutional system which led to the start of a democratic rule of law state. One of the new institutions formed is the Judicial Commission. The desire to create an institution like the Judicial Commission is not something new. In discussions related to the Draft Law on Basic Judicial Powers, there has been a proposal regarding the idea of creating a Judge Research Advisory Council whose function is to provide considerations and make final decisions regarding the process of summoning, promoting, transferring, dismissing and punishing judges in Indonesia. ¹

In order to strengthen the realization of a democratic rule of law, it is necessary to strengthen and establish accountable and transparent judicial institutions. This is considering the experience during the New Order era, where the judiciary was one of the state institutions that was considered not open and full of official authority. Abuse of authority in judicial institutions in Indonesia can damage the integrity and values of judicial institutions, which can reduce public confidence in judicial institutions. Therefore, there needs to be an effort so that the judiciary becomes a state institution that can create justice and enforce the law as well as possible.

In order to be able to resolve various problems related to the judiciary in Indonesia, various parties, starting from practitioners, practitioners and non-governmental organizations, advised that a Judicial Commission be formed to carry out external supervision functions for judges and carry out the recruitment function of Supreme Court judges in Supreme Court. According to Jimly Asshidiqie, as quoted by Ahsin Thohari, the purpose of establishing a Judicial Commission in Indonesia's new constitutional structure is so that members of the public outside the official structure of parliamentary institutions can be involved in the process of recalling, evaluating work, and possibly dismissing judges. This is intended to maintain the honor, nobility and behavior of judges in order to realize truth, justice and usefulness based on the principle of belief in the Almighty God. ²

According to Article 24B paragraph (1) of the Amendment to the 1945 Constitution, the Judicial Commission has two powers, firstly ordering the appointment of Supreme Court justices and secondly other powers in order to maintain and uphold the honor, dignity and behavior of judges. Based on these provisions, what is the status of the Judicial Commission, whether it is a permanent institution or just a supporting institution or auxiliary organ? The State Commission

¹Idul Rishan, Judicial Commission; An Effort to Realize Judicial Authority, Genta Press: Yogyakarta 2013, p. 47

²Ahsin Thohari, Judicial Commission and Judicial Reform, Jakarta: ELSAM, 2004, p. 93

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is often referred to by different terms, namely auxiliary organs, auxiliary bodies, supporting organs.³

If we look at the authority of the Judicial Commission to appoint Supreme Court judges, the Judicial Commission is an institution that provides services or auxiliary organs, whereas in other authorities, in order to maintain and uphold the honor, nobility, dignity and behavior of judges, the Judicial Commission is the main state institution. Thus, according to Sri Soemantri M, the Judicial Commission has two statuses as a state institution, namely as a state institution that provides services to the main state institutions and a state institution that has an independent license.⁴

The position of the Judicial Commission in Chapter IX concerning judicial power in the constitutional system was also explained by Denny Indrayana who stated that: "The Supreme Court, the Constitutional Court and the Judicial Commission are regulated in the same chapter concerning judicial power which should have the authority to safeguard and uphold honor, dignity and The judge's behavior cannot be argued with. The Judicial Commission is only an investigative institution and the Supreme Court and Constitutional Court are more important, the Judicial Commission's job is to function in parallel with the institution that protects it."⁵

According to Jimly Asshidiqie, structurally the position of the Judicial Commission is positioned at the same level as the Supreme Court and the Constitutional Court, but functionally its role is auxiliary to the institution of judicial power. The Judicial Commission, although its powers are related to the powers of the judiciary, does not carry out the functions of judicial power, the Judicial Commission is not a legal norm enforcement agency, but rather an ethical norm enforcement agency), moreover this Commission only deals with matters of honor, nobility and the behavior of judges, not with judicial institutions or institutions of judicial power institutionally.⁶

Based on the description of the constitutional experts above, conclusions can be drawn regarding the position of the Judicial Commission in the Indonesian constitutional system. First, making amendments to the 1945 Constitution requires that the Judicial Commission be

³See article 24B of the 1945 Constitution of the Republic of Indonesia

⁴Sri Soemantri, Loc Cit, p. 180

⁵Deny Indrayana and Saldi Isra, Regional Heads Elected by Judges: Dismantling the Depok Regional Election Controversy, Harakatuna Publishing: Bandung, 2005, p. 36

⁶Jimly Asshiddiqie, Development and Consolidation of Post-Reform State Institutions, Secretariat General and Registrar of the Constitutional Court, Jakarta, 2012, p. 79

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established in Chapter IX concerning judicial power, of course based on the spiritual atmosphere which is the philosophical, sociological and politics at that time, giving rise to juridical facts regarding the contents of Article 24B of the 1945 Constitution concerning the Judicial Commission. The two arrangements for the Judicial Commission in the constitution show that the Judicial Commission is the main organ or main state institution like other main state institutions which in this constitutional argument are based on the authority regulated in the amendments to the 1945 Constitution regarding the function of external supervision of judges, in addition to the amendments to the 1945 Constitution itself has never explained that the Judicial Commission is a subsidiary organ but instead strengthens the position of the Judicial Commission as the main organ with an independent nature as stated in Article 24B paragraph (1).⁷

Based on Law Number 18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission. In Article 13 paragraph (1) it is stated that the authority of the Judicial Commission is:

1. Proposing the appointment of Supreme Court Justices and Ad Hoc Judges at the Supreme Court to the DPR for approval, the authority to appoint Supreme Court Justices is the authority of the Judicial Commission to select candidates for Supreme Court Justices And then propose it to the House of Representatives (DPR), the Judicial Commission nominates 3 (three) candidates for Supreme Court Justice to the DPR for every 1(one) need for a Supreme Court judge. The process of proposing the transportation of a Supreme Court justice is carried out within a maximum period of 6 (six) months.
2. Maintaining and upholding the honor, nobility, dignity and behavior of judges, the authority to guard which is included in the 1945 Constitution means that the Judicial Commission carries out a series of activities that can protect judges from carrying out actions that violate the judge's code of ethics and behavioral guidelines, in this case the Judicial Commission carries out its duties. called preventive. Meanwhile, this authority requires the Judicial Commission to take repressive action against judges who have violated the code of ethics and behavioral guidelines for judges. This action can take the form of imposing sanctions
3. Establish a Code of Ethics and/or Code of Conduct for Judges together with the Supreme Court

⁷Ibid, p. 102

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4. Maintain and enforce the Judge's Code of Ethics and/or Code of Conduct

3.2. The Authority Given Should Be to the Judicial Commission in Maintaining the Nobility and Dignity of Judges. A Study of Law Number 18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission

According to A. Ahsin Thohari, as quoted by Farid Wajdi, states that the occurrence of state law judgments in efforts to coerce judicial power is also reflected by ensuring the conservation of credible supreme judges and maintaining the continuity of judges so that they remain firm in their moral values as a judge who must have integrity and a personality beyond reproach, be honest, fair, and uphold the values of professionalism.⁸ Juridically, Law Number 18 of 2011 provides various new tasks and authorities for the Judicial Commission, including: carrying out selection to appoint ad hoc judges at the Supreme Court, making efforts to increase the capacity and welfare of judges, taking legal and other steps to protect the honor of , nobility, dignity and behavior of judges, conducting wiretapping in collaboration with law enforcement officials, and carrying out supervision in order to ensure a clean and transparent judiciary.⁹

In Nur Afilin's view, as quoted by Farid Wajdi, it is this function of external supervision of the Supreme Court that actually makes the KY's role very strategic in making the judicial reform agenda a success. When the KY is able to exercise these rights and give authority well, then the quality of the judges who are "God's representatives" to decide a case is truly guaranteed. On the other hand, if the KY is not strong in guarding this matter, it is not impossible that the supremacy of law in Indonesia will increasingly introduce and apply the principles of justice.¹⁰

The competence of authorities and supervisory duties are oriented to ensure that all judges, as the main executors of the court's functions, have high integrity, honesty and professionalism, so as to gain the trust of the public and justice seekers. The context of the urgency of the importance of KY supervision of the judge profession according to Jawahir Thontowi's view is:¹¹

⁸Farid Wajdi, Strengthening the Judicial Commission in Maintaining the Integrity of God's Representatives, Setara Press: 2019, p. 28.

⁹Bambang Sutyoso, "Strengthening the Role of the Judicial Commission in Law Enforcement in Indonesia", Legal Journal Volume 18 April 2011 Number 2, Faculty of Law UII: Yogyakarta

¹⁰Farid Wajdi, Loc Cit, p.29

¹¹Jawahir Thontowi, "Position and Function of the Judicial Commission of the Republic of Indonesia", Law Journal Volume 18 April 2011 Number 2, Faculty of Law UII: Yogyakarta, 2011, p. 288

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1. The formation of the KY is a constitutional mandate of the 1945 Constitution, which is the highest law in the hierarchy of the statutory and regulatory system (the constitution is the highest law of the country)
2. The credibility of the KY is based on the fact that the process of enshrining it in the 1945 Constitution as a result of the 1999-2002 amendments was a creation and innovation of the constitution. It is hoped that the formation of this state institution will lay the foundation for good and clean government, including law enforcement that is open, reliable, fair and full of accountability.
3. the abundance of public reports to the KY, a phenomenon almost the same as that experienced by the MK. The poor judicial situation in Indonesia is not only due to the mentality of the judicial apparatus, but also because the judicial system is easily intervened by those in power.

In order to maintain and uphold the honor, nobility, dignity and behavior of judges, especially judges who are agents of change in the Supreme Court and its subordinate judicial bodies, the Indonesian Judicial Commission carries out its supervisory function over judges within the Supreme Court which includes supervision. from preventive to repressive supervision as determined in the provisions of article 24A paragraph (3) and article 24B paragraph (1) of the 1945 Constitution of the Republic of Indonesia which was then implemented in the application of article 13 letter b, article 20, article 21 , article 22, and article 23 of Law Number 18 of 2011 concerning the Judicial Commission.¹²

It is very important to monitor the performance of Supreme Court Justices and judges at all court levels, considering that they are the main actors in the judiciary, especially with all the authority they have. Through his decision, a judge can, for example, transfer a person's ownership rights, revoke a citizen's freedom, declare invalid the government's arbitrary actions against the community, up to an order eliminating a person's and other people's right to life. Therefore, the duties and authority possessed by judges must always be carried out in order to uphold the law, truth and justice in accordance with the code of ethics without discrimination without discriminating between people as stipulated in the recitation of a judge's oath, where

¹²Suparman Marzuki, Judicial Authority Commission in the Context of Legal Politics and Judicial Power, in Black and White Special Courts, Judicial Commission: Jakarta, 2015

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everyone has the same position in front of them. law (equality before the law), as well as before judges.¹³

In order to maintain and uphold the honor, nobility, dignity and behavior of judges, especially judges who are agents of change in the Supreme Court and lower judicial bodies, the Indonesian Judicial Commission carries out a supervisory function over judges within the Supreme Court which includes supervision. from preventive to repressive supervision as determined in the provisions of article 24A paragraph (3) and article 24B paragraph (1) of the 1945 Constitution of the Republic of Indonesia which was then implemented in the application of article 13 letter b, article 20, article 21 , article 22, and article 23 of Law Number 18 of 2011 concerning the Judicial Commission.

Then the supervisory function of the Judicial Commission is strengthened in Article 34 paragraph (3) of Law Number 48 of 2009 concerning Judicial Power. The provisions of Article 34 paragraph (3) determine that in order to maintain the honor, dignity and behavior of supreme judges and ad-hoc judges, supervision is carried out by the Judicial Commission which is regulated based on the Law. This provision clarifies the existence of the Judicial Commission of the Republic of Indonesia as a supervisory institution for Supreme Court judges and judges in carrying out all humiliation.¹⁴

In field action, the Judicial Commission's first step in cleaning up the Supreme Court (MA) is an effort to maintain the dignity and nobility of judges, because if the Supreme Court can be controlled, then it can be ensured that its judges not only have intellectual capacity but high moral integrity and goodness will also be attached so that the independence of the judiciary and the integrity of judges in maintaining the spirit and dignity of judges can be ensured. Apart from that, the Judicial Commission is expected to work hard to carry out its functions and authority in supervising and training judges as well as in supervising them related to safeguarding the nobility and dignity of judges.¹⁵

Until now, all levels of society have high hopes for the Judicial Commission in improving the judiciary in Indonesia. The heavy responsibility borne by the Judicial Commission in repairing and dealing with the dilapidated judicial system that has been running for a long time, to create a transparent and accountable judiciary by means of the Judicial Commission must have the

¹³Idul Rishan, Judicial Commission: An Effort to Realize the Authority of the Judiciary, Genta Press: Yogyakarta, 2013

¹⁴Article 34 paragraph (3) Law Number 48 of 2009 concerning Judicial Power

¹⁵Wildan Suyuthi Mustofa, Code of Ethics for Judges, Kencana Prerenada Media Group: Jakarta, 2013, p. 49.

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courage to take steps to stop and cut bad traditions within the judiciary of the Republic of Indonesia.¹⁶

In maintaining the honor of judges, the Judicial Commission must pay attention to whether all approved decisions are in accordance with a sense of justice or whether they deviate from the honor of judges. Meanwhile, in maintaining and upholding the nobility of the dignity of judges, the Judicial Commission must monitor whether the judge's profession is running in accordance with professional ethics and has received recognition from society, as well as supervising and ensuring that judges remain true to their human nature, have a conscience, and maintain their self-respect. . by not committing disgraceful acts.¹⁷

Referring to Law Number 18 of 2011, there are several authorities of the Judicial Commission in carrying out its duties. Among other things, the Judicial Commission has the right to appoint Judicial Commissions for relations from designated areas, this is done in order to maintain and enforce the Code of Ethics and Code of Conduct for Judges (KEPPH).

To be able to assist in the operation of law in Indonesia, every State Institution must be able to carry out the duties and functions mandated in the Constitution properly, as does the Judicial Commission which has important duties regarding the operation of law in Indonesia. The Judicial Commission will pay close attention to the structure of law enforcement officials, especially judges in the context of maintaining the operation of law in Indonesia. So the Judicial Commission should have the authority that should be in accordance with Article 24B of the 1945 Constitution of the Republic of Indonesia.

4. Conclusion

Based on the description of the results of the previous discussion, the author draws a conclusion, that the Judicial Commission carries out supervision of judges in law, namely supervision of judges regarding ethical violations and behavior of judges in the Supreme Court, both judges in the District Court, Religious Court judges, judges State Administrative Court, and Military Court judge. Starting from monitoring, receiving reports, verification and investigations, to determining whether or not a violation of the code of ethics and/or code of conduct for judges has occurred, as well as being able to take legal steps against people or groups who degrade the

¹⁶Farid Majdi, Imran and Muhammad Ilham Hasanuddin, Supervision of Judges and Enforcement of the Code of Ethics in the Judicial Commission, Sinar Graphics: Jakarta, 2020

¹⁷Suparman Marzuki, Supervision and Enforcement of the Professional Code of Ethics for Judges, FH UII Press: Yogyakarta, 2020, p. 69

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dignity and nobility of judges. Supervision of judges by the Judicial Commission is mandated by law Number 18 of 2011 concerning the Judicial Commission. To be able to assist in the operation of law in Indonesia, every State Institution must be able to carry out the duties and functions mandated in the Constitution properly, as does the Judicial Commission which has important duties regarding the operation of law in Indonesia. The Judicial Commission will pay close attention to the structure of law enforcement officials. The authority that should be given to the Judicial Commission in maintaining the nobility and dignity of judges is by revising the 1945 Constitution of the Republic of Indonesia by strengthening the institution of the Judicial Commission. Strengthening the Judicial Commission Institution can imitate the Judicial Commission model; Netherlands and Peru. The Dutch Judicial Commission is an independent institution which aims to overcome several problems faced by the Dutch judiciary, especially those related to budget issues. The Dutch Judicial Commission not only handles issues of ethics and behavior of judges, but also handles administrative and personnel issues for judges as well as management and budgeting of judicial institutions. Meanwhile, the Peruvian Judicial Commission is an independent state institution and is not part of the judiciary. If we refer to the law. Law Number 18 of 2011, there are several powers of the Judicial Commission in carrying out its duties, including that the Judicial Commission can appoint regional relations, and in order to maintain and enforce the Code of Ethics and Code of Conduct for Judges. So that to make it better, the recommendation that can be given is for the Judicial Commission related to the Judicial Commission playing an important role in supervising judges, so what must be paid attention to is prospective judges who can truly take responsibility as supreme judges. The public is expected to actively participate in realizing a clean judiciary by reporting violations committed by judges to the Judicial Commission through the Regional Liaison Commission.

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Law Number 18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission

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