

**Code of Ethics Violations Due to Constitutional Court Decision  
Number 90/PUU-XXI/2023 Towards the Dynamics of the 2024 Election  
in Indonesia**

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**Abstract**

The Constitutional Court's (MK) Decision No. 90/PUU-XXI/2023 has sparked widespread debate regarding code of ethics violations in the context of Indonesia's 2024 general elections. Some consider this decision, which affects election regulations and mechanisms, as a deviation from the ethical principles that should be upheld in democratic processes. This research aims to analyze the impact of the decision on the dynamics of the 2024 elections, focusing on the aspects of code of ethics violations that have emerged. The method used is document study and normative juridical analysis, which includes an assessment of the Constitutional Court's Decision, related election regulations, and legal and ethical literature. The results showed strong indications of violations of the code of ethics by several parties involved, both in terms of technical implementation and in the context of political campaigns. The Constitutional Court's Decision also raises new challenges in maintaining the integrity and fairness of elections and affects public confidence in the democratic process. In conclusion, concrete steps are needed to strengthen oversight mechanisms and enforce the code of conduct to ensure that the 2024 elections occur pretty and transparently and respect the underlying ethical principles.

**Keywords:** constitutional court; code of conduct violations; electoral dynamics

**Abstrak**

*Putusan Mahkamah Konstitusi (MK) No. 90/PUU-XXI/2023 telah memicu perdebatan luas terkait pelanggaran kode etik dalam konteks pemilihan umum 2024 di Indonesia. Beberapa pihak menganggap putusan ini, yang mempengaruhi peraturan dan mekanisme pemilu, sebagai penyimpangan dari prinsip-prinsip etika yang seharusnya dijunjung tinggi dalam proses demokrasi. Penelitian ini bertujuan untuk menganalisis dampak Putusan tersebut terhadap dinamika Pemilu 2024, dengan fokus pada aspek pelanggaran kode etik yang muncul. Metode yang digunakan adalah studi dokumen dan analisis yuridis normatif, yang meliputi pengkajian terhadap Putusan MK, peraturan pemilu terkait, dan literatur hukum dan etika. Hasil penelitian menunjukkan adanya indikasi kuat pelanggaran kode etik yang dilakukan oleh beberapa pihak yang terlibat, baik dari*

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*sisi teknis pelaksanaan maupun dalam konteks kampanye politik. Putusan MK juga memunculkan tantangan baru dalam menjaga integritas dan keadilan pemilu serta mempengaruhi kepercayaan publik terhadap proses demokrasi. Kesimpulannya, diperlukan langkah konkret untuk memperkuat mekanisme pengawasan dan penegakan kode etik untuk memastikan Pemilu 2024 berlangsung secara jujur dan transparan serta menghormati prinsip-prinsip etika yang mendasarinya.*

**Kata kunci:** *dinamika pemilu; mahkamah konstitusi; pelanggaran kode etik*

## **1. INTRODUCTION**

Indonesia is densely populated with people of different backgrounds and a highly diverse/heterogeneous society. A government that can represent a diverse population geographically and ideologically is necessary to maintain the stability of the Republic of Indonesia. Elections are a way to determine legislative and executive officials who can effectively represent the citizens of Indonesia. Elections serve to maintain the people's sovereignty and elect a representative government. This is because a strong democracy has emerged in Indonesia following the country's reforms.<sup>1</sup>

After four amendments to the 1945 Constitution (1999-2002), the Indonesian Constitution underwent four fundamental changes. The establishment of popular sovereignty was the first change, followed by the regular implementation of the trias politica, the system of checks and balances, the separation of powers in the administration of the state, and the rules in the administration of the state. This shows that it is the people who hold full sovereignty over the state, as determined by the People's Consultative Assembly (MPR).<sup>2</sup>

Elections are a means of safeguarding the sovereignty of the people and the only process of building a country's political morality. During elections, citizens enjoy complete freedom, and the Constitution guarantees their right to express their political aspirations. Elections are also democratic events that democratic countries must organize. Indonesia, as a democratic country, makes elections a routine agenda that is implemented

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<sup>1</sup> Yusril Katili dan Firman Latuda, "Sistem Pemilu Proporsional Tertutup Dalam Analisis Pemilu 2024," *Jurnal Analisis Sosial Politik* 1, no. 2 (2022): 172–182.

<sup>2</sup> Amrizal J. Prang, "Implikasi Hukum Putusan Mahkamah Konstitusi," *Kanun Jurnal Ilmu Hukum* 13, no. 1 (2011): 77–94, <https://jurnal.usk.ac.id/kanun/article/view/6233>.

once every five years. The Republic of Indonesia is a sovereign territory of the people, and the administration adheres to the principle of the wisdom of the people guided by the affairs of deliberation/representation. General elections are needed to uphold the law and realize the representative function as the foundation of Indonesian sovereignty. The implementation of elections prioritizes the principles of free, honest, secret, fair, general, and direct elections to achieve its goals. The election organizing body must apply the principles of elections so that the process of holding elections maintains its integrity.

The 2024 elections should have been a real boost to democracy. It was unfortunate when, in 2022, the Constitutional Court gave a decision that ministers or civil servants equivalent to ministers were not required to resign from their positions if they wanted to run as presidential candidates, making the democratic competition that had been going on for five years considered a lousy start for the country. The 2024 parliamentary elections will be held simultaneously on February 14, 2024, to elect members of the DPRD, DPR, DPD, and the President.<sup>3</sup> The Constitutional Court is one of society's hopes. Thanks to its authority, especially in constitutional testing, the Constitutional Court plays a vital role in the democratization of Indonesia as a defender of democracy.<sup>4</sup> Unfortunately, Constitutional Court Decision Number 68/PUUXX/2022 seems to have dashed people's hopes for democratic progress.

To maintain integrity in the implementation of elections, it is necessary to have a code of ethics for every institution that plays a role in organizing elections. The code of ethics is an action and reference in ethics that is intended to regulate the actions of a person or group in a particular profession or position. From here, we can understand that morality is a human perspective that is not only through the mind but also through the heart. Sapta Karsa Utama is the code of ethics of the Constitutional Court of the Republic of Indonesia, which is the basis for reference to the actions and ethics of all Constitutional

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<sup>3</sup> Ahmad Sadzali, "Peranan Mahkamah Konstitusi Dalam Mewujudkan Demokrasi Substantif Pada Pemilu 2024 Melalui Penegakan Hukum Progresif," *As-Siyasi : Journal of Constitutional Law* 2, no. 2 (December 21, 2022): 193–218, <https://doi.org/10.24042/as-siyasi.v2i2.14948>.

<sup>4</sup> Nabitatus Sa'adah, "Mahkamah Konstitusi Sebagai Pengawal Demokrasi Dan Konstitusi Khususnya Dalam Menjalankan Constitutional Review," *Administrative Law and Governance Journal* 2, no. 2 (June 11, 2019): 235–47, <https://doi.org/10.14710/alj.v2i2.235-247>.

Court judges. This code of ethics then becomes the legal basis for laws related to the Constitutional Court, which requires that all constitutional judges obey the code of ethics.

The implementation of a code of ethics in the Constitutional Court must be an ethical guideline for constitutional judges in carrying out their functions. The main purpose of the code of ethics is to maintain every aspect, starting from the dignity, good name, and integrity of the Constitutional Court and continuing with the maintenance of ethical and moral standards of constitutional judges. Integrity and adherence to ethical rules in the decision-making process of law enforcement agencies are vital to maintaining credibility and public trust in public administration.<sup>5</sup> The Constitutional Court's code of ethics is considered a pillar of respect for the principle of constitutionality, which is the basis for ethics and guidelines for the behavior of all judges responsible for implementing law enforcement. Judges have a heavy responsibility as part of the legal system when considering and ruling on a case. Therefore, it is essential to be aware of a judge's obligations. A judge's decision can directly impact the lives of the people involved in the case. Regulations relating to judges' codes of conduct significantly affect their stability and operation.<sup>6</sup>

In recent cases, especially the case involving Anwar Usman, the Chief Justice of the Constitutional Court, who was found guilty of violating the regulations governing the behavior and ethics of judges, since the Constitutional Court Number 90/PUU-XXI/2023 decided that the minimum age criteria for presidential and vice presidential candidates be published. Several parties have assessed that Anwar Usman did not comply with the code of ethics principles, which include opportunity and justice, competence and rigor, honesty, justice, and independence. The political climate is also closely related to the decision of the Constitutional Court. The Decision Number: 90/PUU-XXI/2023 regarding the age limit for presidential and vice presidential candidates has become a hotly debated issue among the general public, academics, and practitioners.

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<sup>5</sup> Yusril Katili dan Firman Latuda, "Sistem Pemilu Proporsional Tertutup Dalam Analisis Pemilu 2024."

<sup>6</sup> Kayus Kayowuan Lewoleba Nala Syandhira Suzeeta, "Pelanggaran Kode Etik Oleh Hakim Mahkamah Konstitusi Terkait Dengan Putusan Mahkamah Konstitusi Nomor 90/Puu-Xxi/2023," *Madani: Jurnal Ilmiah Multidisiplin* 1, no. 11 (2023): 255–62, <https://doi.org/https://doi.org/10.5281/zenodo.10252190>.

The issuance of Decision Number 90/PUU-XXI/2023 is considered to be full of conflicts of interest and legal defects. This is influenced by the issuance of this decision right during the registration period for the upcoming 2024 presidential and vice presidential candidates, the presence of vice presidential candidates under the age of 40 and between the vice presidential candidates have a family relationship with the Constitutional Court judge who is currently serving as well as involved in the decision Number: 90/PUU-XXI/2023. Based on these problems, it can prove that there is a political interest and legal defect in determining Constitutional Court Decision Number 90/PUU-XXI/2023 regarding the age limit for presidential and vice presidential candidates. This makes the author interested in studying violations of the Code of Ethics due to Constitutional Court Decision Number 90/PUU-XXI/2023.

Based on the explanation above, the problem formulation in this article is: what are the violations of the code of ethics arising from the Constitutional Court's Decision number 90/PUU-XXI/2023? Second, what is the mechanism of supervision and enforcement of the code of ethics in the context of the decision? Third, to what extent does violating the code of ethics affect public trust, electoral legitimacy, or the dynamics of the 2024 elections?

This research is based on previous research entitled "Legal Effects of the Constitutional Court Decision Number 90/PUU-XXI/2023 on the Democratic System in Indonesia" by Angie Angel Lina<sup>7</sup>. The study examines the legal impact of the Constitutional Court's Decision regarding the age limit of candidates for President and Vice President on the democratic system in Indonesia. The results showed that the decision caused controversy and was considered to deviate from the proper judicial review procedure. The Constitutional Court, as an institution that safeguards democracy, should be free from the intervention of executive and legislative powers. This previous research makes the author interested in writing about "Violation of the Code of Ethics Due to Constitutional Court Decision Number 90/PUU-XXI/2023 Against the Dynamics

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<sup>7</sup> Angie Angel Lina and Alan Bayu Aji, "Akibat Hukum Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 Terhadap Sistem Demokrasi Di Indonesia," *Jurnal Hukum In Concreto* 3, no. 1 (February 19, 2024): 57–71, <https://doi.org/10.35960/inconcreto.v3i1.1314>.

of the 2024 Election". This research examines further how the verdict can affect the ethics and dynamics of the 2024 elections and its implications for the integrity of the electoral process in Indonesia. It will also explore the potential code of ethics violations due to the ruling and how this impacts public perceptions of fairness and transparency in the electoral system.

## **2. RESEARCH METHODS**

Normative legal research is the type of research used. This research provides the concept that the law is something specified in the legal regulations (law of the book) or provides an understanding that the law is a norm or rule.<sup>8</sup> Soerjono Soekanto defines normative legal research as research whose implementation utilizes library materials and relevant laws and regulations and the study of library materials and secondary data that form the basis of research.<sup>9</sup> The implementation of this research through literature review as a tool in collecting research data. Document review collects secondary information on the topic through reading books, scientific articles, research results, and laws and regulations. This research collected various relevant documents, including Constitutional Court Decisions, applicable laws and regulations, and documents from electoral institutions. It conducted an in-depth study of the papers that had been collected. The content analysis method was used to evaluate the impact and relevance of the decision-making on the code of ethics and electoral dynamics.

## **3. RESULTS AND DISCUSSION**

### **3.1. Violations of the Code of Ethics arising from the Constitutional Court Decision Number: 90/PUU-XXI/2023**

Based on Article 1 Point 4 of the Regulation of the Honorary Council of Election Organizers and Regulation Number 2 of 2017 concerning the Code of Ethics and Code of Conduct of Election Organizers (DKPP Regulation Number 2 of 2017), the Code of Ethics of Election Organizers (DKPP Regulation Number 2 of 2017) must be based on

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8 Amiruddin dan H. Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2004).

9 Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: PT Raja Grafindo Persada, 2006).

ethics, moral principles, and philosophy in the guidelines of election organizers in the form of commands or prohibitions, appropriate or inappropriate actions and statements of election organizers. In addition, Article 22 of DKPP Regulation Number 2 of 2017 regulates the sanctions that can be imposed if election organizers commit violations. The sanctions are divided into reprimand, reprimand, and temporary to permanent dismissal. Constitutional Court Decision Number 90/PUU-XXI/2023, led by Chief Justice Anwar Usman, concluded that the minimum age to hold or obtain elective office, including in local elections, is 40. However, this decision was questioned because Anwar Usman, as the Chief Justice of the Constitutional Court, is related to President Jokowi as his brother-in-law, so he was accused of violating ethical rules due to a potential conflict of interest.

The Constitutional Court's Decision is aimed at supporting President Jokowi's son, Gibran Rakabumin Raka, who is now the Mayor of Solo and vice president. In this case, the Chief Justice of the Constitutional Court, Anwar Usman, was reported to the Honorary Council of the Constitutional Court or MKMK for violating the provisions of MK Regulation Number 02/ PMK/2003 concerning the Code of Ethics and Ethics. The actions of constitutional judges, especially violations of Articles 2 (2) and 3 (1).<sup>10</sup> Violations of the code of ethics arising from the decision of the Constitutional Court (MK) Number 90/PUU-XXI/2023 include several vital aspects that refer to the integrity and professionalism of constitutional judges. The following are some of the violations of the code of ethics reported: The Chief Justice of the Constitutional Court, Anwar Usman, is suspected of having an interest due to his family relationship with a candidate who benefited from this decision.<sup>11</sup>

Despite the potential conflict of interest, Anwar Usman did not recuse himself from decision-making. Alleged violation of the principle of integrity, where the judges are considered not to maintain the principles of honesty and impartiality in carrying out their

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<sup>10</sup> R. A. Syahputra, "Etika Profesi Hakim Mk Terhadap Kode Etik Hakim Mk Dalam Putusan Mk No. 90/Puu-Xxi/2023," *Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humaniora* 1, no. 2 (2024), <https://journal.forikami.com/index.php/nusantara/article/view/416>.

<sup>11</sup> Rayhan Azryal Syahputra, "Etika Profesi Hakim Mk Terhadap Kode Etik Hakim Mk Dalam Putusan Mk No. 90/Puu-Xxi/2023," *Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humaniora* 1, no. 02 (2023).

duties. The Deputy Chief Justice of the Constitutional Court, Saldi Isra, and the former Chief Justice, Arief Hidayat, were reported for expressing different opinions that made allusions to matters outside the context of the issue at hand, including Anwar Usman's behavior, which was considered unethical and violated the judges' code of conduct. The report included allegations of behavior that violated the criteria of propriety expected of a constitutional judge, which could damage the image and credibility of the judiciary.

### **3.2. The Mechanism of Supervision and Enforcement of the Code of Ethics in the Context of the Constitutional Court Decision**

According to Oemar Seno Adji, judges' freedom must be guided by two concepts: factual justice and actual facts. This means that judges cannot arbitrarily choose how to implement the basic principles and overall structure of judicial and organizational operations.<sup>12</sup> The existence of the judiciary is interpreted as an inevitability in a country of law. The existence of a free and independent judiciary in the state system guarantees the continuity of the rule of law. Cooperation between various interrelated elements is an important element in realizing an independent judiciary. This is because the internal system of the institution currently serves as a benchmark to evaluate the integrity of the organization in carrying out the responsibilities and authorities entrusted to it.<sup>13</sup>

A code of ethics functions to maintain the sanctity of the constitutional system, one of which is by supervising the actions of judges internally and externally. Suppose you read the Decision Number 90/PUU-XXI/2023 thoroughly. In that case, the basis for the application (petit) is based on "experience as a regional administrator both at the provincial and district/city levels. Application number 90/PUU-XXI/2023 refers to "experience" and "success" Solo Mayor Gibran Rakabumin Raka, which means application Number 90/PUU-XXI/2023 does not rely on the reason for the application of elected officials. As far as is known, the application contains the name of the Mayor of Solo, the nephew of the Chief Justice of the Constitutional Court, and Constitutional

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<sup>12</sup> Oemar Seno Adji, *Peradilan Bebas Negara Hukum* (Jakarta: Erlangga, 1980).

<sup>13</sup> Alwi Al Hadad Elfid Nurfitra Mubarak, "Pengawasan Terhadap Hakim Mahkamah Konstitusi: Perspektif Teori Checks and Balances Dalam Sistem Ketatanegaraan," *Khazanah Hukum* 3, no. 1 (2021): 8–19, <https://journal.uinsgd.ac.id/index.php/kh/article/view/10575>.



Judge Anwar Usman. This implies that Usman cannot decide on an onion because of the applicant's family relationship with the Mayor of Solo mentioned in his application. Because it concerns the interests of his nephew, the document testing file of Constitutional Judge Anwar Usman related to the age limit of presidential candidates and his deputy may contain ethical violations in the application for a verdict. He could run for the Democratic Party in 2024 and intends to run for vice president in one of the parties, unlike the decision of the Supreme Court not to include Judge Anwar Usman; the proposal for collaboration with this political party differs. The three decisions gave relatively similar results, namely that age restrictions are a matter for regulators. This violation of the code of ethics is not only caused by the composition of the Constitutional Court judges whose election is through representatives of the House of Representatives, the Supreme Court, and the Government, namely each person as stipulated by the UUMK.

The investigation of the issue document regarding the constitutional test of the age limit policy for presidential candidates and their deputies in the election law in Case Number 90 is a constitutional setback for democracy and the Constitution. The provisions decided by the Constitutional Judge are harmful because they are not a regulatory body. This is because considering the age limit for appointment is the authority of the House of Commons (open law policy) and creates contradictions against the Constitution. This contains a conflict of interest of the Chief Justice of the Constitutional Court, who is not involved in the decision in the same case in a separate file. In addition to shortcomings due to conflicts of interest, the Chairman of the Constitutional Court also has leadership weaknesses because he violates the rules of procedure of the Constitutional Court, including the cancellation of the Case File (Form) that has been withdrawn previously (contempt of court by the test applicant).<sup>14</sup> The lawsuit filing must be canceled, considering the legal position that the applicant does not suffer any potential or tangible constitutional harm.

The Chairman of the Constitutional Court claimed to be interested in deciding the issue through an embodied application, explicitly mentioning the personification of

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<sup>14</sup> Susianto Susianto, "Mahkamah Konstitusi: Etika Kehakiman Dan Kendaraan Politik Penguasa," *Binamulia Hukum* 12, no. 2 (January 4, 2024): 459–71, <https://doi.org/10.37893/jbh.v12i2.695>.

Gibran Rakabumin as the primary demand. Judges Sardi Isla and Arif Hidayat revealed that there was a violation beyond the reason of the Chief Justice of the Constitutional Court because this decision was taken based on superficial legal considerations and was full of practical political interests, so this decision is entirely reasonable to affect Jokowi's efforts to maintain political dynasties.

Supervision and enforcement of the code of ethics are essential in maintaining the integrity of state institutions, including the Constitutional Court. The Constitutional Court's Decision Number 90/PUU-XXI/2023 is an example of how supervision and enforcement of the code of ethics can play a role in maintaining the credibility of the highest legal institution in Indonesia. The Constitutional Court's Decision concerns a substantive examination of several policies of Law Number 24 of 2003 concerning the Constitutional Court, which has changed with Law Number 8 of 2011 and Law Number 7 of 2020. This decision highlights the importance of effective mechanisms to monitor and enforce judicial integrity and the code of ethics. The mechanism for supervision and enforcement of the code of ethics at the Constitutional Court is a fundamental aspect of maintaining the integrity and credibility of this institution. The Constitutional Court's Decision Number 90/PUU-XXI/2023, which establishes an adequate supervision and enforcement mechanism of the Code of Ethics to ensure that all constitutional judges carry out their duties with high integrity and professionalism, reminds us of the importance of being expected by improving regulations and increasing transparency, the Constitutional Court will remain a trusted pillar of justice in Indonesia.

The internal supervision of the Code of Ethics by the Honorary Assembly of the Constitutional Court (MKMK) must monitor constitutional judges' behavior in compliance with the Code of Ethics and Code of Conduct. External supervision can involve the Judicial Commission (KY), which monitors judges' behavior at all levels, including constitutional judges, to ensure their integrity and professionalism. Code of Conduct supervision requires a rigorous evaluation process that includes public reports and complaints, initial checks by MKMK, and further investigations if necessary. Oversight also includes monitoring constitutional decisions to detect possible violations of the Code of Conduct. The Constitutional Court enforces the Code of Ethics by

imposing sanctions on judges who violate it, such as warnings, reprimands, and even temporary or permanent dismissal from office. The sanction must be in accordance with the actions taken against violations of the code of ethics based on a comprehensive assessment of the MKMK. To improve the quality and maintain the integrity of the implementation of elections in response to the Constitutional Court's Decision Number 90/PUU-XXI/2023, the Honorary Council of Election Organizers (DKPP) needs to take comprehensive and integrated strategic steps.

First, strengthening supervision and enforcing the code of ethics must be a top priority. The DKPP may conduct training and continuing education programs for all members of the election organizers, emphasizing the importance of professionalism and compliance with the code of ethics. In addition, periodic ethical audits need to be carried out to ensure that each member complies with the standards set so that potential violations can be minimized early. Second, transparency and accountability in the DKPP process and decisions must be improved. The public publication of the verdict will give the public an idea of DKPP's commitment to integrity and provide a deterrent effect for violators. Periodic reports on the performance and decisions of the DKPP published to the public can also increase public trust in this institution. In addition, the DKPP needs to strengthen communication with the KPU, Bawaslu, and other law enforcement agencies. The existence of good cooperation will ensure more effective and comprehensive supervision of all stages of the election. Cooperation with independent monitoring organizations and non-governmental organizations (NGOs) is also essential to monitor the implementation of elections and detect violations as early as possible. DKPP must also utilize technology and information systems optimally. Developing a digital reporting system that is easily accessible to the public will make it easier to report ethical violations.

Additionally, data analysis technology can help detect patterns of violations and take appropriate preventive measures. In handling violations, the adjudication process must be simplified and accelerated so that cases of violations can be followed up immediately. Providing firm and proportionate sanctions against violators is also essential to enforce discipline and set an excellent example for all election organizers.

Finally, public socialization and education must be improved through intensive public campaigns and dialogues involving various stakeholders. This aims to make the public more aware of integrity in elections and DKPP's role in protecting it. DKPP can gain valuable input and build more trust with the community by holding public discussions on integrity issues. With these steps, DKPP will be more effective in improving the quality of election administration and maintaining its integrity, which is relevant to the Decision of the Constitutional Court Number 90/PUU-XXI/2023.

### **3.3. Violation of the Code of Ethics as a Result of Constitutional Court Decision Number: 90/PUU-XXI/2023 on Public Trust, Election Legitimacy, and the Dynamics of the 2024 Election**

As a tool of democracy, elections are intended to change the character of conflict in society by creating a fair and impartial political arena that runs smoothly. To form a democratic state government, based on Pancasila as the basis of the state and Article 1 paragraph (2) of the 1945 Constitution, Article 1 Paragraph (2) of the 1945 Constitution This article emphasizes that Indonesia is a state of law based on the sovereignty of the people and based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Article 22E paragraph (1) of the 1945 Constitution contains several election criteria: direct, general, free, secret, honest, fair, transparent, and accountable.<sup>15</sup>

The Constitutional Court (MK) is a body tasked with resolving constitutional cases to uphold the Constitution with full responsibility by Law Number 1 of 2013 concerning the Second Amendment to Law Number 24 of 2003 concerning the Constitutional Court.<sup>16</sup> The Indonesian Constitutional Court (MK) was established as a body that is obliged to maintain the validity of the Constitution and has the authority to decide cases at the initial and final levels. Thus, the Constitutional Court is considered an independent

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<sup>15</sup> Prasetyo, "Pengawasan Partisipatif Dalam Upaya Mewujudkan Pemilu 2024 Berkualitas Dan Berintegritas," *SIYASI: Jurnal Trias Politica* 1, no. 1 (2023): 39–49, <http://journal.uinsgd.ac.id/index.php/siyasi/article/view/26559/9134>.

<sup>16</sup> Laila Intansari dan Samsul Arifin Mohammad Iqbal Alif Auliadi, Omy Fajar Reza Pradana, "Konsekuensi Pelanggaran Kode Etik Hakim MK Terhadap Berlakunya Putusan MK Nomor 90/PUU-XXI/2023," *Sosio Yustisia: Jurnal Hukum Dan Perubahan Sosial* 4, no. 1 (2024): 1–16, <https://doi.org/https://doi.org/10.15642/sosyus.v4i1.544>.

institution with great power. However, in practice, this authority is only sometimes implemented by existing rules and procedures.<sup>17</sup>

As the guardian and interpreter of the Constitution, the Constitutional Court has the duty and authority to protect and uphold the Indonesian Constitution. To uphold the Constitution in Indonesia, the Constitutional Court (MK) has nine judges to test laws against the Constitution that are deemed to violate the Constitution. As an independent institution, the Constitutional Court plays a vital role in preserving the rule of law, the balance of power, and guaranteeing the fundamental rights and freedoms in the Constitution. Given the heavy task of defending the Constitution in Indonesia, Constitutional Court judges must realize that every decision they make has a significant impact on the Constitution of our country. Therefore, a Constitutional Court judge must follow the rules in the Code of Ethics for Judges to enforce the law. This Code of Ethics reflects the Constitutional Court's commitment to the rule of law and justice in Indonesia.

However, the Constitutional Court (MK) has recently been in the public spotlight for exercising its authority to test laws against the fundamental law that allegedly violates the Constitution. The Constitutional Court (MK) Decision Number: 90/PUU-XXI/2023 on the Material Test of Article 169 Letter (q) of Law Number 7/2017 on General Elections has been in the public spotlight because it is full of conflicts of interest. The Constitutional Court (MK) has made a decision numbered 90/PUU-XXI/2023, which changes the previous rule in Article 169 letter (q) of Law number 7 of 2017 concerning general elections, which states that presidential candidates (Capres) and vice presidential candidates (Cawapres) must be at least 40 years old. The new rule states that candidates must also be elected to an office through local elections. This rule assumes that anyone under 40 and holding an elected office from a general election, including a regional election, is eligible to run for deputy or President.<sup>18</sup>

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<sup>17</sup> M. Jundi Rabbani, Cahya Kusumajati Jati, and Mukhsin Achmad, "Implementasi Etika Pejabat Mk: Studi Kasus Kepemimpinan Anwar Usman," *At-Thullab: Jurnal Mahasiswa Studi Islam* 6, no. 1 (June 7, 2024): 1588–97, <https://doi.org/10.20885/tullab.vol6.iss1.art10>.

<sup>18</sup> Hafizatul Ulum and Sukarno, "Analisis Pengaruh Pelanggaran Kode Etik Hakim Mahkamah Konstitusi Terhadap Putusan Yang Di Tetapkan," *Unizar Law Review* 6, no. 2 (December 31, 2023), <https://doi.org/10.36679/ulr.v6i2.60>.

Decision Number 90/PUU-XXI/2023, which regulates the age restriction of presidential and vice presidential candidates, found that Constitutional Court Chief Justice Anwar Usman had violated the code of ethics, as stated in MKMK Decision Number 2/MKMK/L/11/2023. Anwar Usman was accused of violating the code of ethics governing judges, which includes the values of independence, impartiality, skill, and ingenuity. as well as appropriateness and decency by presenting the principles above. Judicial power should not be subjected to and influenced by the executive or legislative parties. Such actions violate the judicial code of ethics and the principle of "Nemo Judex In Causa Sua, " meaning that judges may not hear cases related to themselves. Seeing a case of violation of the code of ethics shows the low integrity of a judge.<sup>19</sup>

The impact of the Constitutional Court Decision Number 90/PUU-XXI/2023 has raised various controversial opinions among the public and raised questions regarding the validity of the Constitutional Court's Decision if the judge who tried the case caused a violation of the code of ethics. The breach of the code of ethics certainly makes the community not guarantee the principle of legal certainty in the decision-making process. Many people are disappointed with the Decision of Constitutional Court Judge Number 90/PUU-XXI/2023. After all, it contains a conflict of interest because it paves the way for the President's eldest son.<sup>20</sup> Violations of the code of ethics impact public trust. First, ethical violations lead to low public trust in the judicial institution. Second, low levels of trust reduce public confidence, potentially weakening the Index score. Third, ethical violations lead to a decrease in the judicial institution's reputation.

Public trust in the judiciary is determined by the ability of law enforcement officers in the judiciary. The image of the judiciary is assessed through decisions made by the judicial power as the final defense as a step to uphold justice and the law created. A judge's ethics in deciding a case must have integrity, competence, and behavior by the

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<sup>19</sup> Edo Maranata Tambunan Et Al., "Analisis Eksistensi Etika Hakim Mahkamah Konstitusi Dalam Mewujudkan Peradilan Berintegritas Dan Akuntabel (Putusan Mk No. 90/Puu-Xxi/2023)," *Iblam Law Review* 4, No. 2 (May 31, 2024): 50–61, <https://doi.org/10.52249/Ilr.V4i2.406>.

<sup>20</sup> Mohammad Iqbal Alif Auliadi, Omy Fajar Reza Pradana, "Konsekuensi Pelanggaran Kode Etik Hakim Mk Terhadap Berlakunya Putusan Mk Nomor 90/Puu-Xxi/2023."

norms that have been determined according to legal regulations and procedures.<sup>21</sup> If you look at the case of the above decision, which was filled with ethical violations, it triggered various controversies and weakened public confidence in the judicial institution.

Meanwhile, the legitimacy of this election is the main foundation of a healthy democracy, where every election process and result must be accepted by all parties, including political parties, candidates, and the general public. The Constitutional Court (MK) Decision Number 90/PUU-XXI/2023 has significant implications for the legitimacy and dynamics of the 2024 elections in Indonesia. This decision has caused controversy regarding the code of ethics violated and allegations imposed on election organizers, as well as affecting public perception of the integrity of the democratic process. One of the main issues is how this decision may affect public confidence in electoral institutions and their outcomes. In a normative juridical context, this analysis aims to evaluate whether the Constitutional Court's Decision is consistent with applicable legal principles and what implications it has for the legal norms governing the conduct of elections.

The legitimacy of elections depends heavily on public perceptions of the fairness and honesty of the electoral process. Constitutional Court rulings that are perceived as controversial can undermine public trust, which in turn can result in low voter turnout and increased potential for post-election conflict. The dynamics of the 2024 elections are also influenced by the responses of various stakeholders, including political parties, legislative candidates, and civil society, who may perceive that this ruling disadvantages or favors certain parties. This may reinforce political polarization and reduce political stability in Indonesia.

## **CONCLUSION AND SUGGESTION**

It can be concluded through document analysis and normative juridical research that there is an urgent need to revisit the legal framework and oversight mechanisms to ensure that all parties involved in organizing elections adhere to a strict code of ethics. This research aims to determine the decision's impact on the dynamics of the 2024

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<sup>21</sup> Ulum and Sukarno, "Analisis Pengaruh Pelanggaran Kode Etik Hakim Mahkamah Konstitusi Terhadap Putusan Yang Di Tetapkan."

elections. The Constitutional Court's Decision has caused various reactions and adaptations among political actors, which can change the order and strategy in the electoral process. The results show several significant codes of conduct violations directly related to interpreting and implementing the Constitutional Court's Decision, which affected public confidence in the democratic process. The findings provide important insights for developing policies and strategies to strengthen electoral integrity in the future and offering recommendations for improving oversight mechanisms and code of conduct enforcement in the context of evolving political dynamics.

This study suggests that it is essential to increase the transparency and accountability of the decision-making process at the Constitutional Court level so that the public can widely accept the decisions produced. In addition, the impact of Constitutional Court Decision Number 90/PUU-XXI/2023 on the dynamics of the 2024 elections is very complex. It requires serious attention from all stakeholders to ensure that the democratic process continues to run with high integrity and fairness. Policy revisions and institutional capacity building may be necessary to maintain the legitimacy and stability of the electoral process in the future.

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