

# Kyri: Maintaining the Dignity of Judges Under the General Principles of Good Governance (AUPB)

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## ABSTRACT

The General Principles of Good Governance (AUPB) are principles that must be upheld in the formation and performance of state institutions in Indonesia that are regulated by law. The Judicial Commission of the Republic of Indonesia (KYRI), a new institution established after reform as a checks-and-balances institution in judicial practice, is still considered weak and needs improvement. This research aims to identify whether KY has fulfilled and implemented the AUPB. The results found that KY has fulfilled the eight AUPB principles regarding provisions and principles.

**Keywords:** Judicial Commission, Judges, AUPB, Good Governance

## INTRODUCTION

The end of the New Order, which had been in power for 32 years in Indonesia in 1998, was a monumental milestone that ushered in the reform era. The reformation was born with high hopes and launched changes in all aspects, including judicial power, which separated the judiciary from the scope of government. Therefore, the aim of judicial power as an independent body can be created perfectly as stipulated in the 1945 Constitution.

In response to the call for constitutional reform and the mandate of the 1945 Constitution (UUD 1945), the Judicial Commission (KY) was established. Its primary role is to safeguard the independence of judges in their decision-making and to curb instances of the 'judicial mafia' game. This new state institution, operating independently of the judiciary, serves as a crucial checks and balances mechanism.<sup>1</sup>

According to Jimly Asshiddiqie<sup>2</sup> the formation of the KY was based on a reaction to the enforcement of reforms in the judicial sphere with an internal situation considered still problematic. On the other hand, the KY was not present to prevent DPR members' political infiltration in filling the Supreme Court's highest position, namely the supreme judge. This means that the independence of the Supreme Court should be free from interference from any power. So, by nominating supreme judges through KY, it is hoped that the process can be carried out transparently, objectively and accountably, thereby safeguarding the court's independence. In 2001, it was agreed to establish KY through the Third Amendment of UUD 1945, the provisions of which are contained in Article 24B paragraph (1), which reads:

- a) "The Judicial Commission is independent and has the authority to propose the appointment of supreme judges and has other authorities to maintain and uphold the honor, dignity and behavior of judges.
- b) Members of the Judicial Commission must have knowledge and experience in the field of law and have integrity and a personality beyond reproach.
- c) The president appoints and dismisses members of the Judicial Commission with the approval of the House of Representatives (DPR).

<sup>1</sup> Bambang Sutiyoso and Sri Hastuti Puspitasari, *Aspek-Aspek Perkembangan Kekuasaan Kehakiman* (Yogyakarta: UIII Press, 2005).

<sup>2</sup> Jimly Asshiddiqie, *Hukum Tata Negara Dan Pilar-Pilar Demokrasi*, ed. Zainal A.M. Husein (Jakarta: Konstitusi Press, 2005).

d) The composition, position and membership of the Judicial Commission are regulated by law. “The enthusiasm for establishing a Judicial Commission is based on concerns regarding the gloomy condition of the judiciary and the lack of justice in Indonesia.”

KY itself has been regulated in Law No. 22 of 2004 about Judicial Commission, where one of its authorities is to maintain and uphold the honor and ethics of judges. However, the authority of the KY itself has been isolated after the review of Law No. 22 of 2004, together with Law No. 4 of 2004 and Law No. 5 of 2004, which concerns aspects of judge supervision.

The annulment of Law no. 22 of 2004 through the Constitutional Court's decision has excluded the mandate provisions of UUD 1945, especially Article 24B regarding the authority of the KY. Even though Law no. 22 of 2004 was last amended by Law no. 18 of 2011 as Amendments to Law no. 22 of 2004. Thus, the KY's authority in the aspect of supervision is still not felt to be under the mandate of Article 24B of UUD 1945. In its journey, the world of justice has never achieved the progress envisioned regarding the ideal of upholding the world of justice.

Several parties consider KY's performance achievements to be unsatisfactory. Of course, an institution's performance cannot be free from public criticism. Member of the DPR RI Legal Commission, Benny K. Harman, criticized the performance of the Judicial Commission, which so far has not been heard from, and according to Benny, KY only lived during the time of Busyro Muqoddas (First Chairman of KY for the 2005-2010 period). This means people's expectations of this judge-monitoring institution have decreased and no longer exist<sup>3</sup>.

Commission III member Syarifuddin Sudding also expressed criticism in the DPR Working Meeting with KY<sup>4</sup>. In 2014, KY proposed a budget of tens of billions of rupiah for a program to increase judge supervision. However, this submission is not commensurate with the results of the KY's performance, especially regarding the supervision of judges. So, it is said that KY has the potential to become a firefighting agency because KY's work pattern only started moving after the judge's decision, which was considered odd, was exposed by the media.

Criticism about KY's unsatisfactory work progress could indicate errors in the bureaucracy he manages. The work of the government bureaucracy never escapes criticism and suggestions, including for KY. This is solely to achieve the effectiveness of the institution's role in carrying out the law's mandate.

In this context, KY can be indicated as a state institution that does not implement the principles stated in Law No. 30 of 2014 stating about the General Principles of Good Government (AUPB). So, in this case, the author formulates the problem regarding the bureaucratic system within KY as a high-state institution. How does KY, as a bureaucracy, implement the AUPB?

## METHODOLOGY

The authors conducted normative juridical research using library materials. These materials included primary legal materials such as norms, rules, basic regulations, and statutory regulations regarding the KY regulations contained in Law No. 18 of 2011, as well as AUPB regulations as referred to in Indonesian legislation. The author also used secondary legal materials, such as expert opinions, books, scientific works, and tertiary data from studies and credible media reports on social phenomena related to the discussion. To address the research problem, the authors conducted data analysis using qualitative descriptive methods.

<sup>3</sup> Tempo, “Sebut Kinerja KY Lemah, DPR: Hanya Hidup Di Zaman Busyro Muqoddas - Nasional Tempo.Co,” January 15, 2020, <https://nasional.tempo.co/read/1295502/sebut-kinerja-ky-lemah-dpr-hanya-hidup-di-zaman-busyro-muqoddas>.

<sup>4</sup> Hukumonline, “DPR Kritik KY Mengawasi Hakim,” 2013, <https://www.hukumonline.com/berita/a/dpr-kritik-ky-mengawasi-hakim-lt52245a6e2e041/>.

## DISCUSSION

Based on the review and literature study that the author conducted to explore the performance of the KY according to the AUPB, the authors elaborate the findings in four discussion sub-chapters as follows:

### Judicial Commission: Rules and Implementation

Article 13 of Law No. 18 of 2011, which amends Law No. 22 of 2004 concerning the Judicial Commission, outlines the authority of the KY, which includes: Proposing the appointment of chief justices and ad hoc judges at the Supreme Court to the DPR for approval; upholding the honor, dignity, and behavior of judges; establishing a Code of Ethics and/or Code of Conduct for Judges with the Supreme Court; and enforcing the implementation of the Code of Ethics and/or Code of Conduct for Judges. These four points of authority are vested in the seven members of the KY, including the Chair and Deputy Chair.

The KY membership includes two former judges, two legal practitioners, two legal academics, and one public member. Members of the Judicial Commission are state officials and hold office for five years, with the possibility of re-election for one term. The current leadership of the Judicial Commission was inaugurated for the 2020-2025 term at the State Palace in Jakarta, with President Joko Widodo as a witness to the oath. This appointment is based on the Decree of the President of the Republic of Indonesia Number 131/P of 2020 regarding the Respectful Dismissal of Members of the Judicial Commission for the 2015-2020 term and the Appointment of Members of the Judicial Commission for the 2020-2025 term.

The Judicial Commission is supported by the Secretariat General, which is responsible for publishing the organizational structure as outlined in Regulation No. 4 of 2012 regarding the Organization and Work Procedures of the Secretariat General of the Judicial Commission of the Republic of Indonesia. The organizational structure (refer to figure 1) of the Judicial Commission of the Republic of Indonesia includes the following elements: a. General Secretariat; b. Bureau of Recruitment, Advocacy, and Capacity Building for Judges; c. Judge Behavior Monitoring Bureau; d. Investigation Bureau; e. Internal Planning and Compliance Bureau; f. General Bureau; g. Center for Analysis and Information Services. The total number of employees within both structural and functional positions is 234.



Figure 1. Organizational Structure (in Bahasa Indonesia)

During its journey, KY established representatives in various regions to assist in carrying out the law mandate. According to Law Number 18 of 2011, the Judicial Commission has the authority to appoint regional liaisons as needed. Following the Judicial Commission Regulation Number 1 of 2012, which outlines the Establishment, Structure, and Work Procedures of Judicial Commission Liaisons in the regions, the

establishment of Judicial Commission Liaisons (PKY) aims to facilitate the public in submitting reports, enhance the effectiveness of trial monitoring, and promote institutional socialization to uphold the honor, dignity, and behavior of judges. Since 2013, the Judicial Commission has formed liaisons in several regions, including East Kalimantan, West Kalimantan, North Sulawesi, South Sulawesi, Riau, South Sumatra, North Sumatra, East Nusa Tenggara, West Nusa Tenggara, Maluku, East Java, and Central Java.

KY is a judicial institution that functions as a judicial supervisor outside the court; its establishment and performance concern several constitutional law practitioners and researchers. Several studies such as Widayati et al.<sup>5</sup> Wibowo & Prasetyo<sup>6</sup>, Lebu<sup>7</sup>, Cahyani et al.<sup>8</sup>, Subiyanto<sup>9</sup>, and Wantu & Rasyid<sup>10</sup> see positively that KY is one of the government's solution efforts in increasing the legal integrity and independence of judges in post-reform Indonesia. These studies show that the KY institution is an official first step and has legal value in enforcing the judiciary in Indonesia. In-depth on performance, Wibowo & Prasetyo<sup>11</sup> explained one of the KY's work practices in supervising judges' code of ethics regarding applying criminal law in corruption cases.

Apart from the positive findings, several researchers looked deeper into KY's performance and found that several regulations were not implemented as they should have been. Yunita et al.<sup>12</sup> found that there is still a lack of implementation of the statutory mandate for KY as the authority to appoint and supervise judges—in line with Imran et al.<sup>13</sup> and Sindy et al.<sup>14</sup> who found that the KY's supervisory authority was limited to recommendations and had no executorial power, and Wiriadinata<sup>15</sup> saw that the KY had not been effective in carrying out its role as supervisor of judges due to the limited authority mandated. Sutiyoso<sup>16</sup> reported that before the 2011 Revised Law came into force, the KY's position in supervising judges was still weak despite public enthusiasm in the first five years since its operation was very high.

Furthermore, Zahro et al.<sup>17</sup> found that the recruitment of Supreme Court judges by KY in 2018 was contrary to Constitutional Court Decision Number 53/PUU-XIV/2016 by not graduating Supreme Court judges from the career judge category. Thontowi<sup>18</sup> stated that the function of the Judicial Commission is less effective in being

<sup>5</sup> Widayati et al., "RECONSTRUCTION OF THE JUDICIAL COMMISSION'S AUTHORITY IN PROMOTING JUDGES WITH INTEGRITY," *Jurnal Hukum Unissula* 39, no. 2 (2023), <https://doi.org/10.26532/jh.v39i2>.

<sup>6</sup> Raihan Wibowo and Handoyo Prasetyo, "Peranan Komisi Yudisial Dalam Pengawasan Hakim Terhadap Penerapan Hukum Acara Pidana Terkait Penggabungan Gugatan Ganti Kerugian Tindak Pidana Korupsi," *Journal of Kertha Patrika* 45, no. 1 (2023): 106–33, <https://doi.org/10.24843/KP.2023.v45.i01.p07>.

<sup>7</sup> Akbar Bebe Lebu, "Kedudukan Dan Pembatasan Kewenangan Komisi Yudisial Terhadap Pengawasan Hakim Mahkamah Konstitusi" (Bachelor Thesis, UIN Syarif Hidayatullah, 2024).

<sup>8</sup> Enny Dwi Cahyani, Abigael Dzaky Abyan, and Novianza Suci Wulandari, "Kolaborasi Komisi Yudisial Dan Mahkamah Agung: Upaya Memperkuat Keadilan Di Indonesia," *Soedirman Law Review* 6, no. 2 (May 31, 2024): 119–32, <https://doi.org/10.20884/1.slr.2024.6.2.16062>.

<sup>9</sup> Achmad Edy Subiyanto, "REKONSTRUKSI KEWENANGAN KONSTITUSIONAL KOMISI YUDISIAL," *Jurnal Media Hukum* 22, no. 1 (2015), <https://doi.org/10.18196/jmh.2015.0052.140-155>.

<sup>10</sup> Fence M Wantu and Usman Rasyid, "REDEFINISI KEWENANGAN KOMISI YUDISIAL DALAM KONSTITUSI: UPAYA MENGHARMONISASIKAN PUTUSAN PELAKU KEKUASAAN KEHAKIMAN INDONESIA," *Jurnal Majelis* 08 (September 2020): 33–60.

<sup>11</sup> Wibowo and Prasetyo, "Peranan Komisi Yudisial Dalam Pengawasan Hakim Terhadap Penerapan Hukum Acara Pidana Terkait Penggabungan Gugatan Ganti Kerugian Tindak Pidana Korupsi."

<sup>12</sup> Fenny Tria Yunita et al., "Penguatan Kewenangan Komisi Yudisial Di Indonesia: Perspektif Konstitusional Dan Kontekstual," *Jurnal Kajian Konstitusi* 1, no. 1 (June 15, 2021): 1, <https://doi.org/10.19184/jkk.v1i1.23822>.

<sup>13</sup> Imran Imran et al., "STRENGTHENING THE POSITION AND FUNCTION OF THE JUDICIAL COMMISSION IN THE CONSTITUTIONAL SYSTEM OF THE REPUBLIC OF INDONESIA STRENGTHENING THE POSITION AND FUNCTION OF THE JUDICIAL COMMISSION IN THE CONSTITUTIONAL SYSTEM OF THE REPUBLIC OF INDONESIA," *Journal of Liberty and International Affairs* 4, no. 3 (2018): 99–105, <https://www.ceeol.com/search/article-detail?id=751074>.

<sup>14</sup> Sindy, Nurul Mutmainah Al Zahra, and Neni Nurjanah, "Rekonstruksi Komisi Yudisial Sebagai Upaya Optimalisasi Penegakan Integritas Kekuasaan Kehakiman," *Jurnal Studia Legalia* 3, no. 2 (November 2022).

<sup>15</sup> Wahyu Wiriadinata, "Komisi Yudisial Dan Pengawasan Hakim Di Indonesia," *Jurnal Ilmu Syari'ah Dan Hukum* 48, no. 2 (December 2014).

<sup>16</sup> Bambang Sutiyoso, "Penguatan Peran Komisi Yudisial Dalam Penegakan Hukum Di Indonesia," vol. 18, 2011.

<sup>17</sup> Nur Halimatuz Zahro et al., "PROYEKSI KONSTITUSIONAL REKRUTMEN HAKIM AGUNG OLEH KOMISI YUDISIAL," *Jurnal USM Law Review* 4, no. 1 (2021): 82–104, <https://doi.org/10.21143/vol47.no4.1585>.

<sup>18</sup> Jawahir Thontowi, "Kedudukan Dan Fungsi Komisi Yudisial Republik Indonesia," 2011.

an external control of the judges' code of ethics. He suggested that KY institutions improve individual integrity and change their leadership system.

From the findings made by the researchers, it can be seen that the KY's track record for almost 20 years has been carried out as an effort to balance judicial practice in Indonesia after the launch of government reform, still undergoing revisions and improvements and even failures in specific periods—recruitment of judges. Following up on research by Thontowi<sup>19</sup> which suggests improvements to the system and revision of laws, as well as improvements in the quality and integrity of personnel. The author tests administratively the bureaucratic system and organizational arrangements in KY to see whether KY has systemically fulfilled the existing provisions in implementing good government institutions.

### **KY's bureaucratic system according to Weber's bureaucratic theory**

Weber's bureaucratic theory is still the benchmark for setting up an ideal bureaucratic system studied worldwide<sup>20</sup>. As a government institution in terms of bureaucratic performance, KY has fulfilled what was stated by Weber through legitimacy, proportion and characteristics of a good bureaucracy as follows.

According to Max Weber<sup>21</sup>, there are two types of bureaucracy. First, patrimonial bureaucracy is appointed based on subjective criteria because there is an emotional connection with the appointing official. Second, rational bureaucracy is appointed based on objective criteria, namely conditions determined before someone becomes an employee.

Weber tends to express his opinion regarding the type of rational bureaucracy. At least, many things from observational experience in bureaucratic institutions later gave rise to ideas on rational bureaucracy's symptoms, criteria, propositions, and characteristics. First, a person has specific tasks; second, the facilities and resources needed to fulfill those tasks or roles are provided by other parties, not by the role players themselves.

Weber said that legitimacy is the basis for almost all systems of authority. He expressed his five beliefs relating to legitimate authority depending on the five legitimacies, which are briefly described as follows<sup>22</sup>:

- a. Enforcing valid regulations (code) can demand compliance from organization members.
- b. Law is a system of abstract rules applied to specific cases, while administration takes care of organizational interests within the boundaries of the law.
- c. Humans who exercise authority also obey this impersonal order.
- d. It is not only qua members (obedient members) who truly obey the law.
- e. Obedience should not be to a person who holds authority but rather to an impersonal order that guarantees his or her position.

Based on the concept of legitimacy, Weber formulated eight propositions regarding the preparation of a legal authority system as follows<sup>23</sup>:

- a. The duties of officials in the organization are based on continuous rules
- b. These tasks are divided into areas differentiated according to function, each equipped with authority requirements and sanctions.
- c. Positions are arranged hierarchically, and control rights and complaints between them are detailed
- d. Rules appropriate to the work are directed both technically and legally
- e. Organizational resources are very different from those that come from members as individuals

<sup>19</sup> [NO\_PRINTED\_FORM]

<sup>20</sup> Vedat Yılmaz and Cüneyt Telsaç, "AUTHORITY AND BUREAUCRACY FROM WEBER'S PERSPECTIVE," *Mehmet Akif Ersoy Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, no. 34 (November 28, 2021): 42–52, <https://doi.org/10.20875/makusobed.903546>; Sandro Serpa and Carlos Miguel Ferreira, "The Concept of Bureaucracy by Max Weber," *International Journal of Social Science Studies* 7, no. 2 (January 17, 2019): 12, <https://doi.org/10.11114/ijsss.v7i2.3979>.

<sup>21</sup> Martin Albrow, *Birokrasi* (Yogyakarta: Tiara Wacana, 1989).

<sup>22</sup> Ngadisah, "Birokrasi Indonesia," in *Pengertian Dan Teori-Teori Klasik Birokrasi* (Jakarta: Universitas Terbuka, 2015), 1–32.

<sup>23</sup> Ngadisah.

- f. Position holders according to their competence
- g. Administration is based on written documents
- h. The legal authority system can take many forms, but in its original form, it is a bureaucratic administrative staff.

Based on the concept of legitimacy and the Proposition, Weber formulated ten characteristics of bureaucracy as follows<sup>24</sup>:

- a. Staff members carry out their duties impersonally.
- b. There is a clear hierarchy of positions.
- c. The functions of the position are specified in detail.
- d. Officials are appointed based on a contract
- e. They are selected based on professional qualifications.
- f. Salaries are given based on general regulations that have been established.
- g. The position post is the job field itself or the main job field
- h. There is a career path where promotion is possible based on seniority, expertise (merit), and considerations of superiority.
- i. Placement of positions following their competencies.
- j. Subject to a uniform system of discipline and control.

It can be understood that a good bureaucracy contains details of its legitimacy, propositions, and bureaucratic characteristics. The context of the KY, whether its legitimacy, propositions, or characteristics, of course, this high-state institution deserves to be proven that its organizational work runs according to the general principles of good governance.

### **AUPB as a normative principle in the administration of state and government institutions**

As a legal state, the Indonesian government's actions to provide social welfare (welfare state) must be based on applicable laws and regulations so as not to abuse authority, resulting in conflicts of interest between citizens and the government. Therefore, a law was created to accommodate harmony between the interests of society and the government that regulates good governance<sup>25</sup>.

The term good governance is discussed quite a lot in the administration of government in Indonesia from an international perspective, such as in the research of Goebel<sup>26</sup>, Da Cruz et al.<sup>27</sup>, and Ramage<sup>28</sup> as well as nationally, such as in the research of Husen et al.<sup>29</sup> and Umami et al.<sup>30</sup> Several good governance terms are used in studying the principles of good governance. At least three versions have emerged: the UNDP version of good governance, the World Bank version, and the Indonesian statutory version or General Principles of Good Government (AUPB). This third classification is referred to in this paper.

The general principles of good governance as ethical values that live and develop in society have caused diversity in determining the types and groupings of general principles of good governance by legal scholars.

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<sup>24</sup> Ngadisah.

<sup>25</sup> Cekli Setya Pratiwi et al., *PENJELASAN HUKUM ASAS – ASAS UMUM PEMERINTAHAN YANG BAIK*, ed. Adriaan W Bedner and Imam Nasima (Jakarta: LeIP, 2016).

<sup>26</sup> Zane Goebel, *Global Leadership Talk : Constructing Good Governance in Indonesia*, Oxford Scholarship Online (New York: Oxford University Press, 2020).

<sup>27</sup> Carolina Da Cruz, Sri Kusriyah, and Umar Ma, "The Implementation of Good Governance Principles in Admission of Prospective Civil Servants," *Jurnal Daulat Hukum* 5 (2022), <https://doi.org/10.30659/jdh>.

<sup>28</sup> Douglas E Ramage, "INDONESIA: Democracy First, Good Governance Later," *Southeast Asian Affairs* 2007, no. 1 (2007): 135–57, <https://doi.org/10.1355/SEAA07G>.

<sup>29</sup> La Ode Husen et al., "The Principle of Good Governance: A Study of the Implementation of 'Algemene Beginselen Van Behoorlijk Bestuur' in the Legal System in Indonesia," *International Journal of Innovative Research and Development* 9, no. 6 (June 30, 2020), <https://doi.org/10.24940/ijird/2020/v9/i6/jun20067>.

<sup>30</sup> Farida Umami, Ahkam Nashrullah Maududi, and Aminah Rizqi Mahmudah, "A Discourse of Good Government General Principles in Public Services in Indonesia," *Indonesian Journal of Pancasila and Global Constitutionalism* 1, no. 1 (January 31, 2022): 17–32, <https://doi.org/10.15294/ijpgc.v1i1.56875>.

Widyastuti<sup>31</sup> explains that the context of AUPB's implementation in governance in Indonesia experiences 3 phases:

- a. AUPB is not written. Only based on concepts, doctrines and habits that arise in the practice of state administration
- b. AUPB perspective on Law Number 28 of 1999 about State Administrators who are Clean and Free from Corruption, Collusion and Nepotism, which is part or subsystem of statutory regulations relating to law enforcement in the field of corruption, collusion and nepotism
- c. AUPB's perspective is Government Administration Law Number 30 of 2014, which regulates government administration under the 1945 Constitution of the Republic of Indonesia and Pancasila, including AUPB.

AUPB was created in line with current developments to increase the protection of individual rights. Its function in administering government is to provide a guideline for government or state administration officials in the context of good governance.<sup>32</sup>

Article 3 of State Administration Law Number 28 of 1999 outlines seven principles of state administration: 1) The principle of legal certainty; 2) Principles of orderly state administration; 3) Principle of public interest; 4) Principle of openness; 5) Proportional Principle; 6) Professional principles; and 7) Principle of accountability. Meanwhile, Article 10 (1) of Government Administration Law Number 30 of 2014 explains that the AUPB referred to in this Law includes eight principles: 1) The principle of legal certainty; 2) The principle of benefit; 3) Principle of impartiality; 4) Principle of accuracy; 5) The principle of not abusing authority; 6) Principle of openness; 7) Principle of public interest; and 8) Principles of good service.

In this research, the author uses the principles of Law Number 30 of 2014 as the recent rule and explicitly mentions AUPB. The indicators in these eight principles follow the explanation in the relevant law and the presentation by Pratiwi et al.<sup>33</sup>

### **KY: Bureaucracy and Authority**

The existence of the KY in carrying out the authority to nominate prospective judges and in supervising the behavior of judges, viewed from the AUPB principles in general, is as follows:

#### 1) Principle of Legal Certainty

According to the law, this principle prioritizes the basic provisions of laws and regulations and propriety, consistency, and justice in every government administration policy. In this case, the KY acts with its authority in selecting and proposing judges to the Supreme Court; all forms of action are based on the provisions of the applicable laws and regulations. Likewise, in terms of monitoring and taking action against ethical violations committed by judges. From the moment judges are selected for nomination until action is based on the supremacy of governing law, the world of justice becomes a home of justice for society.

Based on the Regulation of the Judicial Commission of the Republic of Indonesia Number 1 of 2020 about the Strategic Plan of the Judicial Commission for 2020-2024, the implementation of the selection of Candidates for Supreme Court Judges and Candidates for Ad hoc Judges at the Supreme Court is based on Law Number 22 of 2004 about the Judicial Commission as amended by Law Number 18 of 2011 and taking into account Constitutional Court Decisions Number 27/PUU/XI/2013, 49/PUU-XIV/2016, and 053/PUU-XIV/2016.

The selection of Supreme Court/Ad-hoc Judge Candidates is carried out in several stages: acceptance of proposals, administrative selection, eligibility test selection, determination of graduation, and submission of

<sup>31</sup> Agustin Widjiastuti, "PERAN AAUPB DALAM MEWUJUDKAN PENYELENGGARAAN PEMERINTAHAN YANG BERSIH DAN BEBAS DARI KKN," *Perspektif* 22, no. 2 (May 31, 2017): 96, <https://doi.org/10.30742/perspektif.v22i2.614>.

<sup>32</sup> Hotma P Sibuea, *Asas Negara Hukum, Peraturan Kebijakan, Dan Asas-Asas Umum Pemerintahan Yang Baik* (Jakarta: Erlangga, 2011).

<sup>33</sup> Pratiwi et al., *PENJELASAN HUKUM ASAS – ASAS UMUM PEMERINTAHAN YANG BAIK*.

proposals to the DPR—recruitment Process for Supreme Judges and Ad Hoc Judges at the Supreme Court. In 2015-2019, KY held seven selections of candidates for Supreme Court justices and received 527 registrants for Supreme Court justice candidates.

### 1) Principle of Utility

Utilitarians in law philosophy define utility as happiness<sup>34</sup> and law's aim<sup>35</sup>. This means that, initially, the law was set to create happiness for people, or most people. KY was initially born as a response to the authoritarian rule in Indonesia, which has been in power for more than 32 years. KY became the hope of the people to create a more democratic state of Indonesia that prioritizes the interests or happiness of the people. Historically, the existence of KY has indeed fulfilled the check and balance expected in Indonesia. In its journey, KY has received many high satisfaction scores from the community.

In Law No. 18 of 2011, KY has included the principle of deliberation to reach a consensus in its decision-making in Article 25 Number (1). In addition, one of the requirements for the appointment of KY staff is a commitment to improving the justice system in Indonesia. Normative requirements meet the needs of the Indonesian people so that judicial practices in Indonesia improve and continue to develop.

### 2) Principle of Impartiality

Dalam Explanatory of Law no. 30 of 2014 Article 10 (1) Letter C: Impartiality means policies, actions, or decisions are taken based on considerations representing all parties and not discriminating between parties. The principle of impartiality is similar to the principle of utility, which is the historical reason for forming the KY to break the interference and power abuse before reformation that harms the people and those who oppose the incumbent government.

Regarding Law No. 18 of 2011, KY, as an independent institution, strives to realize the tasks mandated by the law together with the people through direct receipt of reports, the DPR involved, judges, and the government. Normatively, KY follows the principles of Pancasila democracy agreed upon by all parties.

### 3) Principle of Accuracy

Accuracy is crucial in the administration and the legal environment. An error or inappropriate policy in law can lead to fatal punishment and great losses. KY, as a supervisor of the continuity of legal practice, really considers caution and accuracy in its performance. In its press release on April 15, 2021, KY explicitly stated that the principle of accuracy has always been prioritized in selecting prospective judges. This confirms that KY upholds the principle of accuracy in hosting its authority.

### 4) The principle of not abusing authority

Pratiwi et al. (2022) state that this principle means exceeding or abusing power. Similar to the two other principles, impartiality and utility, the government aims to decrease hierarchical power abuse in legal practice that has long been under a dictator through the emergence of KY. KY helps people reporting misconduct in legal court and supervises the independence of judges constantly to stand for justice and to be respectful to the people. It is reported that the people's satisfaction index of KY is considered high, representing the lousy service, including power abuse from staff to clients, remains low. Besides, since KY's authority is still relatively weak legally in carrying out executions, KY's abuse of its authority tends to be minimal.

### 5) Principle of Openness

It is a principle that serves the public to gain access to and obtain correct, honest and non-discriminatory information in government administration while still paying attention to protecting personal, group and state

<sup>34</sup> Ahmad Zairudin, Dominikus Rato, and Bayu Dwi Anggono, "Konsep Aliran Filsafat Hukum Utilitarianisme Dan Relevansinya Terhadap Konstruksi Pengaturan Pengawasan Pemilu," *Jurnal Rechtsens* 12, no. 2 (December 2023); Serlik Aprita and Rio Adhitya, *Filsafat Hukum* (Depok: PT Raja Grafindo, 2020).

<sup>35</sup> Aprita and Adhitya, *Filsafat Hukum*.



secrets and human rights. In terms of services, information regarding institutional institutions can be accessed through the official managed website. All forms of publications have been packaged and can be accessed by anyone. For example, in nominating a Supreme Court Judge, the process is reported in Figure 2.



Figure 2. KY's public report procedure (in Bahasa Indonesia)

In terms of complaints, if it is suspected that there has been a violation of the code of ethics by a judge, the public or private institutions can make a complaint either directly to KYRI which is based in the capital city of Jakarta or through the KY Liaison representative offices in areas spread across twelve points throughout Indonesia. The Judicial Commission and the Supreme Court regulate a proposal to impose sanctions in the Guidelines for the Code of Ethics and Code of Conduct for Judges contained in Joint Decree number 047/KMA/SKB/IV/2009 and 02/SKB/P. KY/IV/2009.

6) Principle of Public Interest

Every activity and final result of the State Administrator's activities must be accountable to the community or people as the holder of the highest sovereignty of the state under the provisions of the applicable laws and regulations. In this case, the KY exercises its authority for every action of state institution officials to be accountable to the public, for example, in the context of the number of completed public reports in the 2015-2019 period:

Table 1. Completion of KY public reports on Judge Behavior Monitoring

Implementation of Supervision	Total Amount of Reports
1. Reception of Public Reports	7,925
2. Verify Reports	2,896
3. Examination of Reported Reporters, Witnesses, Experts, and Judges	3,198
4. Plenary Session Decisions Reports	1,348
5. Imposition of Sanctions for Judges	424

7) Principles of Good Service

According to the latest KY Community Satisfaction Index (IKM) in semester 1 of 2022, the score obtained from 20 respondents was 3.90 on a scale of 4.00 with a very good predicate. KY provides IKM results data per

semester, which can be easily accessed on the official KYRI website. This shows KY's intention to provide good services to the public.

## CONCLUSION

In general, KY as a state institution has fulfilled the bureaucratic principles expressed by Weber. KY has also complied with the AUPB in its written normative regulation in carrying out its duties and authority. This research is limited to a literature study using secondary data minus field depth through primary data collection. The hope is that this research can be continued in experimental studies on implementing KY performance in the field. The researcher suggests that KY can continue to show good performance as a community liaison so that strengthening KY in the eyes of the law can be realized.

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