

The Importance of an External Supervision for Constitutional Judges to Keep the Honor of the Constitutional Court

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ABSTRACT

This article addresses an importance of supervision of constitutional judges. Why? Two of Indonesian Constitutional Court Judges have been arrested due to the bribery case. The bribery case which involved the Chairman of Justice of the Constitutional Court has become a reason to provide the new Law regarding the Judicial Commission. Even the Constitutional Court arguing that the supervision of the Judicial Commission is not constitutional based on two legal reasoning. The supervision of the Judicial Commission for Constitutional Judges is arguably unconstitutional. But on the contrary, Supreme Judges and Judges of the lower courts become the object of supervision of the Judicial Commission. This article concludes that keeping the honour of the Constitutional Court requires an external supervision. Judicial Commission can be functionalized as an external supervision, such as practiced in Consiglio Superiore della Magistratura, Italy and Conseil Superieur de La Magistrature, French. Both have authority to the giving consideration in the appointment of judges and disciplinary judges and supervision.

Keywords: *Constitutional Court, Constitutional Judges, external supervision, Judicial Commission*

1. INTRODUCTION

The judges, as the main actors or central figure in the judiciary process, are always required to hone the sensitivity of conscience, maintain integrity, apply moral intelligence and improve professionalism in upholding the law and justice for many people (Asshiddiqie 2016). Referring to some cases, the Constitutional Court seems to need to have maximum external supervision to maintain the integrity and improve the professionalism in upholding the law and justice for a lot of people.

The arrest of 2 Constitutional Court Judges, Akil Mochtar and Patrialis Akbar by the Corruption Eradication Commission (KPK) seems to justify the distribution and divergence of crime in every organ of state power at all levels (Malik 2013). This case confirms the need to consider the involvement of external institution in supervising the behavior of judges (Mahkamah Konstitusi Republik Indonesia 2004). The arrested of two Constitutional Judges lead to providing the system of supervision against of the Constitutional Court is questionable (Pressreader 2017). There is a general presumption that the Constitutional Court Judges looks unwilling to be supervised (Pressreader 2017). Some scholars appear to reject the idea of external supervision of the Constitutional Court. Seems, nowadays

the Constitutional Court today is an institution without supervision.

Although a Board of Ethics by the Constitutional Court was established, this institution has not been able to ensure the supervision of Judges performance. This internal supervision has a lot of problems that because it could not work effectively. From an institutional perspective and the dynamics of the work, the Board of Ethics will face obstacles regarding the relationship between the Chairman of the Constitutional Court and the Board of Ethics. For example, in case of memo given by the Chairman of the Constitutional Court, Arief Hidayat, shows the weakness of the Board of Ethics. Technically, administrative and budgetary are part of Constitutional Court and also are not independent. It can be concluded that the Board of ethics is still under the control of the Constitutional Court and also the institutions that are supposed to be supervised.

Some previous cases had been invalid as proof that there is a problem that must be solved. So, based on these cases of the Constitutional Court, it is interesting to investigate the issues. The importance of study is that there are cases where some of the constitutional justices have notwithstanding the rule. The importance of external supervision on the Constitutional Court's Justice in Indonesia is to strengthen oversight of the judiciary. External supervision also assesses that it is far from the interests and corruption. In reality, internal supervision does not influence maximally and do

not create satisfaction to the community. Through this research, the author will try to make comparisons of the external supervision of the judging system in some other countries, namely Italy and French. The function is to contribute knowledge and contribute to Indonesia information related to the external supervision of constitutional justice in some countries.

Based on the description above, a research problem can be formulated: How is the importance of external supervision on the Constitutional Court's Justices to keep an honor of Constitutional Court?

2. THE EFFECTIVENESS OF INTERNAL SUPERVISION IN THE CONSTITUTIONAL COURT

Firstly, for internal supervision, Constitutional Court has been established a Board of Ethics. This body was established to avoid the legal vacuum and strengthening supervision of behaviour of the Constitutional Judges, it has been accordingly established a permanent supervision namely the Honorary Council of Constitutional Court (*Majelis Kehormatan Hakim Konstitusi*). According to Article 27A Law of Constitutional Court 2011, The Honorary Council of Constitutional Court (HCCC) as a permanent supervision. This body consists of five members, such as: one of the Constitutional Judges, Commissioner of Judicial Commission, the elements of Parliament, the elements of the government and the Supreme Judge. But in 2011, this body officially dismissed by Constitutional Court itself, through their decision. In their decision, namely Decision number 49/PUU-IX/2011 concerning judicial review of Law of Constitutional Court 2011, Constitutional Court argued that the composition of the HCCC was potentially raised the political problem. The Constitutional Court considered that the existence of the elements from the House of Representative (DPR), the government, the Supreme Court and the Judicial Commission in its

composition may potential cause a conflict of interest. In the other hand the House of Representative (DPR), the Government, the Supreme Court and the Judicial Commission could be the parties that involved in the Constitutional Court cases. The Constitutional Court also argued that in its composition does not give any guarantees of independence and impartiality.

Moreover, internally the Constitutional Court established Honorary Council of Constitutional Court based on the Constitutional Court Regulation Number 1 the Year 2013. The new Honorary Council of Constitutional Court (HCCC) membership consist of five members, namely: Constitutional Justices, the commissioner of the Judicial Commission, the former of chairman of the state institutions, the former member of the Constitutional Judges and the professor of law. The new body ensured that this body clean from the House of Representative (DPR), Government and Supreme Judges.

Surprisingly, the Constitutional Court expressly rejected the involvement of the Judicial Commission in the HHC, and reformed the HCC into the Ethics Board of Constitutional Court (EBCC) based on the Constitutional Court Regulation (PMK) Number 2 of 2013. The member of ECC consist three persons, they are the former of the Constitutional Justices, academics and public figures (Muhtadi 2015). The authority of ECC in terms of code of ethic enforcement is giving the recommendation to the Honorary Council of Constitutional Justices to conduct a trial of the Constitutional Justices who is breaking up the code of ethics of Justices (Muhtadi 2015). Unfortunately, the ECC as an internal supervision of the Constitutional Court has been showed weaknesses when the detention of Akil Mochtar and Patrialis Akbar by Corruption Eradication Commission occur. Seems the internal control system in the Constitutional Court does not effective. The internal supervision in the Constitutional Court can be seen on the **Table 1.**

Table 1 Internal Supervision in the Constitutional Court of Justices

Laws and The Regulation	Law of Constitutional Court 2011	Constitutional Court Regulation No. 1 of 2013	Constitutional Court Regulation No. 2 of 2013
Name of body	Honorary Council of the Constitutional Court (MKMK)	Honorary Council of the Constitutional Court (MKMK)	Ethics Board of Constitutional Justice
The Members of body	<ul style="list-style-type: none"> • One person of Justices. • One person of the member of Judicial Commission. • One person of the House of Representative element. • One person of the Government. • One person of the Supreme Justice. 	<ul style="list-style-type: none"> • One person of Constitutional Justices. • One person of the Chair of Judicial Commission • One person of former of Constitutional Justices or Supreme Justices. • One person of former state institution. • One person of Senior law science 	<ul style="list-style-type: none"> • One person of the former of Justices. • One person of the academics. • One person of the public figure.
The authorities	Not explained in the Law of Constitutional Court 2011	<ul style="list-style-type: none"> • Invite the Constitutional Court that it is assumed violation of code of ethics to giving explanations and defence. • Invite the applicant, witness, and/or other party that has related to asked description, including the document or other evidence; and • Give sanction to the Constitutional Justices that proved to violate the code of ethics. 	<ul style="list-style-type: none"> • Provide a written opinion on the question of Justices about a behaviour that contain doubt as violation. • Invite and check the Justices that do violation or Justices who suspected violations and related party. • Give oral admonition. • Suggested establishing the Honorary Council to check and take decisions for the Justices that violations or Justices who suspected violation.
Continuation of the status	Rejected by the Constitutional Court Decision Number 49/PUU-IX/2011	Prevailing	Prevailing

Constitutional Court stated that the Constitutional Judges is not the object of Judicial Commission's supervision. In the decision, there are 2 points why the Constitutional Court Justice shall be excluded from 'the supervision' of the Judicial Commission. *Firstly*, from the beginning the Constitution maker intended to exclude the Constitutional Judges from a supervision of the Judicial Commission. This separation arrangement means that. *Secondly*, actually the Constitutional Justices as the subject of 'the supervision' of the Judicial Commission nor the object, because the Judicial Commission can be a party to the dispute of constitutional authority of state institutions which is be resolved by the Constitutional Court.

Moreover, related potential independence and impartiality of the Constitutional Court if the Judicial Commission shall supervise the Justices while at the same time as the Constitutional Court will decide disputes between the constitutional authorities of the Judicial Commission to other state institutions. This is actually as a '*ratio decidendi*' over declared was an unlawful authorities 'the supervision' of the Judicial Commission on Judges. With this argument, the Constitutional Court appeals to the norm, and conclude that norm was contrary with the Constitution.

Since the detention cases of constitutional judges, raises the discussion of importance of external supervision in Constitutional Court. The external supervision seems important to be considered. There is a different opinion

regarding the supervision of the judicial commission of judges from Ni'matul Huda. She stated that regarding the external supervision of the Constitutional Judges actually has been stipulated in Article 24B of the 1945 Constitution which states that: "The Judicial Commission shall be independent in nature and have the competence to make proposals for the appointment of supreme justices as well as other competencies within the framework of safeguarding and upholding the honour, the high status and the behaviour of **"judges"**". She mentioned that the terminology of the **"judges"** in the article 24B of the 1945 Constitution refers to the Supreme Court Justices and judges at the lower court of the Supreme Court and Constitutional Court Judges. The kinds of supervision authority by the Judicial Commission actually an external control to the **"judges"** which should be carried out independently and objectively.

In the future, revising the rules is important to the performance and power of the Constitutional Court in order to be able to be supervised and criticized. Supervision is going to conduct on the performance of Constitutional Judges. Referring to the 1945 Constitution, there are no state institutions that have power or that cannot be corrected. The detention of Akil Mochtar, the Chairman of the Constitutional Court period 2013-2018 and Patrialis Akbar, the Constitutional Justices period 2013-2018 was raising public distrust of the Constitutional. Since that the system of supervision against of the Constitutional Court is questionable (Pressreader 2017). Seems that the Constitutional Court Judges looks unwilling to be supervised and the Constitutional Court today such an institution without supervision (Pressreader 2017).

Although a Board of Ethics by the Constitutional Court was established, this institution has not been able to ensure the supervision of judges performance. This internal supervision has a lot of problems that because it could not work effectively. From an institutional perspective and the dynamics of the work, the Board of Ethics will face obstacles regarding the relationship between the Chairman of the Constitutional Court and the Board of Ethics. For example, in case of memo given by the Chairman of the Constitutional Court, Arief Hidayat, shows the weakness of the Board of Ethic. It can be concluded that the Board of ethics is still under the control of the Constitutional Court and also the institutions that are supposed to be supervised.

Applying a model of internal supervision such as the above, it can be ascertained and did not be effective and brought some problems. The external supervision and independent is needed in this condition. The intentions of an external supervision is not an intervention for them, but to ensure that powers are not abused. The position of the Judges has a great power and sometimes is called the super body. This glorious position can be easily changed to

become corrupt, such as Akil Mochtar and Patrialis Akbar cases. It is clear that the effective supervision is needed to prevent such corrupt behaviour. In order to be a more effective supervision, then it should be provided an independent institution outside of the structure of the institutions supervised.

3. THE JUDICIAL COMMISSION ROLE ON THE CONSTITUTIONAL JUDGES SUPERVISION

Discussion on the supervision of Justices is inseparable from the relationship between the two institutions, namely the Constitutional Court and the Judicial Commission. The Constitutional Court in Indonesia is a new high of state institution and has equal position to the Supreme Court. The Constitutional Court and the Supreme Court are independent judiciary and are separated from other ascendancy, namely the executive and the legislature (Asshiddiqie 2015). Whereas the Judicial Commission is an institution that is independent and has the authority to uphold the honor, dignity and behavior of the judges.

The Judicial Commission has different position compared to the Board of Ethics. Judicial Commission is independent and was formed on the basis of the Constitution. The Judicial Commission also is an institution that has a long experience doing the task of supervision. It is clear and rational if this supervision function is moved to the Judicial Commission. The position of the Judicial Commission that is emphasized in Article 24B paragraph (1) of the 1945 Constitution of the Republic of Indonesia state that "There shall be an independent Judicial Commission which shall possess the authority to propose candidates for appointment as Justices of the Supreme Court and shall possess further authority to maintain and ensure the honour, dignity and behaviour of judges," The word "judges" on Article 24B paragraph (1) of the 1945 Constitution, is not only limited to the Supreme Justices and the Judges at lower Court, because the 1945 Constitution does not provide limits to judge which is meant.

Based on Law of Judicial Authority 2009, affirmed the position of the Supreme Court and the Constitutional Court as a state institution that exercises judicial authority. Chapter V mentioned the other agencies whose functions related with the judicial authority. Otherwise this Law placed the Judicial Commission as an external supervisor who supervise the Supreme Judges as well as the Constitutional Judges. Means that this law recognized the system of Supreme Judges, Constitutional Judges and ordinary Judges.

Legal basis of the formation of the Judicial Commission (Komisi Yudisial 2012) stated on the 1945 Constitution Article 24A paragraph (3) and Article 24B. The Judicial

Commission was an independent which possess the authority to propose candidates for appointment as Justices of the Supreme Court and shall possess further authority to maintain and ensure the honour, dignity and behaviour of judges. The members of the Judicial Commission shall be appointed and removed by the President with the approval of the House of Representatives. The members of the Judicial Commission shall possess legal knowledge and experience and shall be persons of integrity with honourable personality. Furthermore, the structure, composition and membership of the Judicial Commission shall be further regulation by Law of Judicial Commission 2004 and Law of the Judiciary Authority 2009.

The authority of Judicial Commission follows as: Proposed appointment of the Supreme Justices and ad hoc justices in the Supreme Court for the House of Representative to get approval; Maintain and uphold the honour, dignity, and behaviour of the judges; Define the Code of Ethics and/or Code of Conduct of Judges with the Supreme Court; and Maintain and enforce the implementation of the Code of Ethics and/or Code of Conduct of Judges.

4. LESSON LEARNED FROM THE ROLE OF JUDICIAL COMMISSION ON THE JUDGES' SUPERVISION IN ITALY AND FRANCE

The bribery case which involved the Chairman of Justice of the Constitutional Court has become a reason to revise the Law on the Judicial Commission. The House of Representatives should immediately to take a strategic step to encourage the existence of an external supervision.

In Italy and France Special there is an institution that have same characteristics and function with the Indonesian Judicial Commission. The aims of establishment of this body is ensuring that each member of the judicial authority is complying with the law, while maintaining and respecting the independence of judicial power. Indeed, the institution was formed to maintain an independence guarantee of the judiciary. The emphasizes of the Judiciary Commission in Italy and French will be described below.

4.1. Italy, *Consiglio Superiore della Magistratura*

The Judicial Commission in Italy is called the *Consiglio Superiore della Magistratura* (CSM), which it regulated in Article 104 of the Italian Republic Constitution was the High Council of the Judiciary, as follows:

"The Judiciary is a branch that is autonomous and independent of all other powers. The High Council of the Judiciary is presided over by the President of the Republic. The first president and the general prosecutor of the Court of Cassation are members by rights. Two-thirds of the members are elected by all the ordinary judges belonging

to the various categories, and one-third are elected by Parliament in joint session from among university professors of law and lawyers with fifteen years of practice. The Council elects a vice-president from among the member designated by Parliament. Elected members of the Council remain in office for four years and cannot be immediately re-elected. They may not, while in office, be registered in professional roles, or serve in Parliament or on a Regional Council."

The authority of the CSM imposes sanctions related to the various forms of violation of Justice, even though the violation were not mentioned definitely. The Minister of Justice can take the initiative to implement the action, in accordance to Article 107 par. 2 the Italian Republic Constitutional stated that "The Minister of Justice has the power to originate disciplinary action. Judges are distinguished only by their different functions. The state prosecutor enjoys the guarantees established in the prosecutor's favour by the provisions concerning the organization of the Judiciary."

Referring to the functions assigned by the constitution, the CSM has been clearly defined as an important organ of the constitution. Its function as an administration executive in judicial activities, especially on the administration of the members of the judiciary, the agreement of the CSM with workers, promotion and disciplinary action regarding the judges and the prosecutors, also including the organization in the office of the Constitutional Court. It aims to ensure that each member of the judicial authority is complying with the law.

To keep the independence of judicial authority, the High Council of Judicial or the CSM was formed to guarantee the independence of the judiciary (Iriawan 2014). Refer to Article 103 of the Italian Republic Constitution, the membership of the CSM consists of 33 members, namely The High Council of the Judiciary is presided over by the President of the Republic. The first president and the general prosecutor of the Court of Cassation are members by right. Two-thirds of the members are elected by all the ordinary judges belonging to the various categories, and one third are elected by Parliament in joint session from among university professors of law and lawyers with fifteen years of practice. The Council elects a vice-president from among those members designated by Parliament. Elected members of the Council remain in office for four years and cannot be immediately re-elected. They may not, while in office, be registered in professional roles, nor serve in Parliament or on a Regional Council.

Observing the configuration of the CSM in Chapter IV on the Constitution of the Italian Republic it can be said that the CSM is a part of the Judicial Authority. The existence judicial authority in the Chapter shows the importance of the existence of the CSM in order to maintain the independence of judicial authority.

4.2. France, *Conseil Supérieur De La Magistrature*

Special institutions in France that have characteristics of the same function with the Judicial Commission in

Indonesia is *Conseil Superieur De La Magistrature*. This institution is regulated by France's Constitution of 1958, namely in Articles 64 and 65. The Position *Conseil Superieur De La Magistrature* under President, independency on the judiciary. The background of this institution is that there are fears of the accountability of the judiciary and to protect the judiciary from the intervention of executive power (Autheman and Sandra 2004).

Conseil Superieur De La Magistrature set at a glance at Article 64 and 65. Article 64 generally set about the guarantee of the president to create the independence of judicial institutions. While the Article 65 set about the authority, which relates to the giving of consideration in the appointment of judges and disciplinary judges. Membership of the *Conseil Superieur De La Magistrature* consists of 2 (two) ex-officio from the government, and 5 (five) members appointed from the group representative. Now the seven members of the *Conseil Superieur De La Magistrature* details are as follows: (Voermans 2010)

- (1) Ex-officio President as head;
- (2) Ex-officio Minister of Justice as Vice Chairman of;
- (3) One person appointed by the Senate;
- (4) One person appointed by the *Assemblée Nationale*;
- (5) One of the environment *Conseil d'etat*; One of the environments *Cour des Comptes*;
- (6) Six people were taken by the *Magistrate* sitting with system representatives;
- (7) Six people were taken by members of the office of the attorney general through the system of representation.

The internal structure of the *Conseil Superieur De La Magistrature* consists of a chairman who headed by French President in ex-officio, vice chairman headed by the Minister of Justice French and members. In addition to *Conseil Superieur De La Magistrature* have two divisions for help performance leadership, namely *formation de siege* and *formation du parquet* (Autheman and Sandra 2004).

5. COMPARATIVE ANALYSIS OF JUDICIAL COMMISSION IN ITALY AND FRANCE WITH THE JUDICIAL COMMISSION IN INDONESIA

Based on the comparative study, it can be highlighted some similarity and differences between Indonesia Judicial Commission with Italy and France, as follows:

- 1) The first similarity that the Judicial Commission was already set by the Constitution. This setting actually ensures more warranty independence of the judiciary in the enforcement of laws. Thus, the existence of the form of the Judicial Commission in the 1945 Constitution, has a strong position as an institution. This also shows that the Judicial Commission in Indonesia is the state institutions that have an equal position to other state institutions.
- 2) The number of the Commissioners, it can be formed categories as follows: 7 members (small category); 15 members (average category); and 33 members (big categories).

Number of Commissioners will influence the performance of the Judicial Commission. More members will affect maximum performance. On contrary, fewer members will reduce the function. Article 24B of the 1945 Constitution does not mention the number of commissioners of the Judicial Commission definitive. But it is regulated Law Number 18 of 2011 on Judicial Commission. Article 6 paragraph (1) of Law Number 18 of 2011 states that "Judicial Commission has 7 (seven) members". There are considered as state officials as regulated in Article 6 paragraph (2) with states that "the members of the Judicial Commission are the state officials."

- 3) The differentiate also arises on the independence of Judicial Commission. The Indonesian Judicial Commission is an independent state institution, meanwhile, the Judicial Commission of Italy and France was under the Presidency Authority. Although under the President, the Judicial Commission has ideals to ensure more warranty the independence and independence of the judiciary in the enforcement of laws.

6. THE SUPERVISION OF JUSTICES

The important role of the Judicial Commission in the supervision of the Constitutional Justices has become boisterous since the arrest of the Chairman of the Constitutional Court Akil Mochtar on the case of corruption. Akil Mochtar who was accused to accept money related cases have been handled, after the authorization has been declared unconstitutional.

The position of the Judicial Commission in Indonesia emphasized in Article 24B paragraph (1) of the 1945 Constitution of the Republic of Indonesia is: "There shall be an independent Judicial Commission which shall possess the authority to propose candidates for appointment as Judges of the Supreme Court and shall possess further authority to maintain and ensure the honour, dignity, and behaviour of judges." There is a phrase "in order to maintain and upholding the honour, dignity, and behaviour of judges. When looking at the Article 24B paragraph (1), there are 2 (two) very significant:

- 1) The position of the Judicial Commission.
The position is a consequence of the authority given by the constitution.
- 2) The authority of the Judicial Commission.
The position of the Judicial Commission as the institution explain s the authority of the free from the intervention of (intervention) institutions or other power.

Clearly on the background of this research is a problem faced by our state related to the Constitutional Court in Indonesia. In some cases, justices happen to create a lack of trust from the community to the performance of the Constitutional Court. There is a need for a solution to deal with the problem. One of which become the solution is

fully optimized supervision. Regardless of the nature of the decision of Constitutional Court is that final and binding supervision is still needed to prevent abuse of power. Supervision is of course not done against the decision and the authority of the justices that hold trials, but against the behaviour of Judges, and upholding the dignity and honour and citizenship are always maintained.

The most appropriate constitutional institution to supervision is, of course, the Judicial Commission. Indeed, there is a decision of the Constitutional Court Decision Number 005/PUU-IV/2006 which stated that the Constitutional Justices does not include the sense of "judges" which becomes the object of the monitoring of the Judicial Commission. But the decision was based on the 3 (three) main opinions, namely: (1) The interpretation of the systems with the original intent for the formulation of the Amendment of the 1945 Constitution did not enter the Constitutional Justices as one that should be monitored by the Judicial Commission. (2) Constitutional Justice is not the judges, but judges because of the position that is selected by the House of Representative, President, and Supreme Court, and did not involve the Judicial Commission. (3) If the justices entered in the monitoring of the Judicial Commission, it will interfere with the authority of the Constitutional Court to settling a dispute over state institutions.

The argument is less powerful and convincing. **The first** argument, the interpretation used is the interpretation of the systematic. But if that is used then a wider interpretation within the framework to enforce the judgments which are trusted of course is needed supervision of the conduct of the Constitutional Justices, especially is the nature of citizenship Constitutional judges are still maintained. While the interpretation of the original intent, supervision of the Judicial Commission is also intended to apply for the Constitutional judges. **Second**, the status of the Constitutional Judges as judges because of the position is selected for a period of 5 (five) years, of course, should not become the base s powerful enough to remove it from the sense of "judges" which will be monitored by the Constitutional Court. Against the Supreme Justice non-career, any of the Judicial Commission can perform supervision. Filling the judge, of course, should be less significant on the basis of the differentiation supervision.

Third, at the time of the Judicial Commission has the authority for supervision for the conduct of the Constitutional Judges, not placing the Judicial Commission is at the high of the Court. Matter supervision is also outside of the case and the judicial authority is run by the Constitutional Court. Therefore, when the Judicial Commission supervise of the behaviour of Constitutional Justices, Constitutional Court does not need to the independence and impartiality of the judge and settling dispute which involves the Constitutional Court as one of the parties.

On April 2004 a Working Group sponsored by the United States aid fund - (IFES) issued a release report on the results of the comparative research against the institution of the Judicial Commission in several countries at the beginning of the IFES report says: (Autheman and Sandra 2004)

"In order to build an independent and accountable judiciary, many countries have chosen

to create new institutions, such as judicial council. While judicial Councils can play an important role in strengthening judicial independence and in creating accountability mechanisms for the judiciary, they are only one of the components of a broad judicial reform strategy, which should cover a wide range of issues, including access to justice, the enforcement of judgments and anti-corruption."

In the IFES report also mentions the background of the establishment of similar institutions as follows: (Autheman and Sandra 2004)

"The underlying rationale for Judicial Commission creation in countries like France, Italy, Portugal, and Spain was the need to insulate the judiciary from the executive. Judicial Councils were granted extensive powers in judicial career, including the selection, promotion, and discipline of judges, in an attempt to limit executive interference."

There are some of the views of experts on the supervision of Constitutional justices, as follows:

- 1) The observers of the constitutional law, Refly Harun assess the role of the Ethics Board of Constitutional Court is not a maximum in guarding the Constitutional Judges. The reason for this is because the establishment and operational funding the Ethics Board still facilitated by the Constitutional Court (Harun 2017).
- 2) The Constitutional Court researcher, Abdul Ghaffar Husnan assess the form of Ethics Board still not a maximum in the organization and support in running the task (Pressreader 2018).
- 3) The Chairman of the Judicial Commission talk about supervision of Constitutional Judges, Aidul Fitriadi said that the requested supervised by the Judicial Commission is the Constitutional Judges, not the Constitutional Court as the institution (Okezone 2017).

In line with the comments of the experts, it may emphasize the reason behind the need of external supervision of Constitutional Justices because the current internal control system has not been able to guarantee the trust of supervision since there are still cases that emerged. There is a need for having an external supervision as institutions that can maximally supervise the Constitutional Court Judges. Judicial Commission is an independent body and was formed by the command of the 1945 Constitution. The Judicial Commission is also an institution that has a long experience to perform under supervision. Thus, it is rational that the function of external supervision is handled by the Judicial Commission.

7. CONCLUSION

When it compares between system supervision of judicial institution in other countries, author arrived at the conclusion that other countries gave authority to the Judicial Commission in supervising the judiciary. Judicial Commission is an independent body and was formed by

the command of the 1945 Constitution should can supervise the Constitutional Judges. The function of external supervision of the Constitutional Judges is handled by the Judicial Commission.

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