

Reconfiguring Judicial Oversight and Judicial Independence: A Comparative Legal-Political Study of Indonesia and Türkiye

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Abstract

Introduction: Judicial oversight is essential to maintaining judicial accountability while protecting judicial independence. However, institutional arrangements may create tensions when external supervision is constitutionally restricted or when oversight powers are concentrated within institutions subject to political influence.

Purposes of the Research: This article examines the reconfiguration of judicial oversight in Indonesia and Türkiye and analyzes how constitutional and institutional changes have affected the balance between judicial independence and accountability.

Methods of the Research: The study employs normative legal research using comparative, statutory, and conceptual approaches. It analyzes constitutional provisions, legislation, judicial decisions, and institutional arrangements concerning judicial appointments, discipline, and judicial oversight in both jurisdictions.

Results Main Findings of the Research: The comparison identifies two distinct institutional pathways. In Indonesia, constitutional adjudication has progressively constrained the external supervisory role of the Judicial Commission, contributing to fragmented judicial accountability and strengthening internal judicial management. In Türkiye, particularly following the 2017 constitutional amendments, the restructuring of the Council of Judges and Prosecutors has concentrated judicial appointment, disciplinary, and career-related powers within a centralized framework characterized by substantial political involvement. These developments demonstrate that weaknesses in judicial accountability may arise through different institutional mechanisms: fragmentation of external oversight and centralization of oversight under politically influenced arrangements. This study contributes to comparative judicial-governance scholarship by distinguishing institutional fragmentation and oversight centralization as two pathways through which judicial accountability may be weakened. It suggests that effective judicial governance requires independent oversight institutions, clearly defined jurisdiction, transparent procedures, and safeguards against both judicial self-insulation and political interference.

Keywords: *Judicial Supervision; Council of Judges and Prosecutors; Judicial Independence; Democratic Backsliding.*

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INTRODUCTION

Judicial integrity is the fundamental foundation of the rule of law and sound democratic governance. Worldwide, the debate over how to oversee judges without compromising their independence remains an unresolved challenge. Indonesia and Turkey, as two transitioning

democracies, offer rich case studies on how judicial oversight authorities are reconfigured amid volatile political dynamics. In the context of Indonesia following the 1998 reforms, the establishment of the Judicial Commission was a response to the long history of executive intervention and the low level of judicial integrity during the New Order era.¹ This establishment was based on the Third Amendment to the 1945 Constitution, which mandated the Judicial Commission to safeguard the honor, dignity, and conduct of judges.² However, the effectiveness of the Judicial Commission has continued to deteriorate due to a series of Constitutional Court rulings that tend to limit its external authority in order to safeguard what is referred to as judicial independence.³

On the other hand, Turkey presents a different narrative, yet shares similar underlying issues regarding control over judicial power. Turkey's 2017 Constitutional Reform marked the end of a century-and-a-half-long parliamentary tradition, steering the country toward a highly centralized "Turkish-style" presidential system.⁴ One of the most drastic impacts of this reform was the restructuring of the Council of Judges and Prosecutors, previously known as the High Council of Judges and Prosecutors. The changes to the body's composition and appointment method have drawn international attention, particularly from the Venice Commission and the European Court of Human Rights (ECtHR), as they are deemed to grant the executive branch full control over judges' careers and fates.⁵ Whereas in Indonesia judicial oversight has become fragmented due to internal resistance from the judiciary, in Turkey it has undergone extreme centralization under the shadow of presidential power.⁶

This comparative legal-political analysis is crucial for understanding the phenomenon of democratic backsliding currently affecting many countries. The use of legal and constitutional instruments to weaken *checks and balances*—often referred to as "*abusive constitutionalism*"—is

¹ Simon Butt, "The Constitutional Court's Decision," in *Taken from Indonesia: Democracy and the Promise of Good Governance*, ed. Ross H McLeod and Andrew Macintyre (Singapore: Institute of Southeast Asian Studies, 2007).

² Karisa Parameswary et al., "Reconfiguring Judicial Oversight in Indonesia: The Judicial Commission and the Constitutional Limits of Judicial Integrity Enforcement," *Society* 13, no. 3 (2025): 1180–93, <https://doi.org/10.33019/society.v13i3.986>.

³ Parameswary et al.

⁴ Serap Yazıcı, "Constitutional Amendments of 2017: Transition to Presidentialism in Turkey," New York University School of Law, 2017, https://www.nyulawglobal.org/globalex/2017_turkey_constitution_amendments.html.

⁵ Judicial Reform Strategy and Judicial Independence, *Turkey's Judicial Reform Strategy and Judicial Independence* (Geneva: International Commission of Jurists, 2019).

⁶ Selin Esen, "The 2017 Constitutional Reforms in Turkey: Removal of Parliamentarism or Democracy?," 2017, <https://blog-iacl-aidc.org/test-3/2018/5/26/analysis-the-2017-constitutional-reforms-in-turkey-removal-of-parliamentarism-or-democracy>.

clearly visible in how judicial oversight authorities are manipulated by those in power.⁷ In Indonesia, the Supreme Court often uses the shield of judicial independence to avoid rigorous ethical audits from external parties, while in Turkey, the government utilizes the Council of Judges and Prosecutors disciplinary mechanisms to purge judges deemed disloyal following the 2016 coup attempt.⁸ This tension creates a paradox where the institutions meant to guarantee judicial independence instead become instruments to subordinate the judiciary to political interests or specific corporate bodies.⁹

This article provides a comprehensive analysis of the reconfiguration of these oversight authorities, divided into two main sections. The first section focuses on the institutional dynamics and fragmentation of oversight authority in Indonesia, examining the implications of Constitutional Court rulings on the powers of the Judicial Commission, as well as their impact on the accountability of Supreme Court justices and the judicial appointment process.¹⁰ The second section analyzes the centralization of authority and the risk of *judicial capture* in Turkey post-2017 reforms, comparing the Council of Judges and Prosecutors appointment model and its impact on de facto judicial independence against the Indonesian model.¹¹ Through this analysis, it is hoped that new perspectives will emerge on how to redesign an oversight system capable of guaranteeing justice without compromising independence, amid the global tide of populism and the consolidation of executive power.¹²

METHODS OF THE RESEARCH

This study employs normative legal research methods utilizing a *comparative approach*, a *statute approach*, and a *conceptual approach*. The primary focus stems from the normative ambiguity and interpretive tension between the principle of absolute judicial independence

⁷ Andy Omara, "Preventing Abusive Constitutionalism in Indonesia," *Constitutional Review* 11, no. 1 (2025): 92-117, <https://doi.org/10.31078/consrev1114>.

⁸ Simon Butt, "Constitutional Court Decisions on the Judicial Independence of Other Indonesian Courts," *Constitutional Review* 9, no. 2 (2023): 247-75, <https://doi.org/10.31078/consrev922>.

⁹ Theresia Nolda Agnes Narwadan, Yusep Mulyana, and Fauzan, "The Constitutional Court's Position as the Guardian of the Constitution: Between Independence and Political Intervention," *Jurnal Hukum Dan Keadilan* 2, no. 5 (2025): 18-28, <https://doi.org/10.61942/jhk.v2i5.427>.

¹⁰ Parameswary et al., "Reconfiguring Judicial Oversight in Indonesia: The Judicial Commission and the Constitutional Limits of Judicial Integrity Enforcement."

¹¹ Esen, "The 2017 Constitutional Reforms in Turkey: Removal of Parliamentarism or Democracy?"

¹² Cekli Setya Pratiwi, "Threat to Indonesia's Constitutional Court Independence Posed by Religious Populist Movements and Its Implication Towards Human Rights," *Constitutional Review* 10, no. 2 (2024): 307-39, <https://doi.org/10.31078/consrev1022>.

and the need for democratic external accountability. Primary legal materials include the amended 1945 Constitution of Indonesia, the 2017-reformed Constitution of Turkey, the Judicial Commission Law, as well as significant rulings from the Constitutional Court of Indonesia and the European Court of Human Rights. Legal materials were gathered through document studies and recent literature from the past decade, including reputable international journals and reports from institutions such as the Venice Commission. Data analysis was conducted qualitatively to produce analytical, descriptive, and critical arguments regarding the transformation of judicial oversight authorities in both countries.

RESULTS AND DISCUSSION

A. Institutional Dynamics and Fragmentation of Judicial Oversight Authorities in Indonesia: The Paradox Between Independence and Accountability

The reconfiguration of judicial oversight authority in Indonesia is a product of the dialectic between the spirit of reform to create a clean judiciary and internal resistance from judicial institutions that want to maintain their absolute autonomy.¹³ After the fall of the New Order regime in 1998, strong demands emerged to reform the legal system, which had been considered an extension of executive power.¹⁴ The idea of establishing an independent body to oversee the conduct of judges actually emerged as early as 1968, but it only gained momentum through the Third Amendment to the 1945 Constitution in 2001, which mandated the establishment of the Judicial Commission.¹⁵ The Judicial Commission was designed as an independent institution that not only has the authority to propose the appointment of supreme court judges, but also has "other authority" to uphold the honor and dignity of judges.¹⁶

However, the path of the Judicial Commission since it officially began operations in 2005 has been marked by sharp jurisdictional conflicts with the Supreme Court. A fundamental issue arose due to the unclear distinction between "conduct oversight," which falls within the domain

¹³ Fathul Hamdani et al., "Arrangement of Judicial Power in Indonesia Through the Implementation of One-Stop Judicial Review at the Constitutional Court," *Tadulako Law Review* 9, no. 1 (2024): 336–42.

¹⁴ Sulistyowati Irianto et al., *Problematika Hakim Dalam Ranah Hukum, Pengadilan, Dan Masyarakat Di Indonesia: Studi Sosio-Legal* (Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2017).

¹⁵ Festy Rahma Hidayati, ed., *Bunga Rampai: Penegakan Dan Penguatan Integritas Peradilan* (Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2023).

¹⁶ Jimly Asshiddiqie, *Menggagas Peradilan Etik Di Indonesia*, ed. Hermansyah, Imran, and Tri Ourno Utomo (Jakarta: Sekretariat Komisi Yudisial Republik Indonesia, 2015).

of the Judicial Commission, and "judicial technicalities," which is the exclusive domain of the Supreme Court.¹⁷ This tension reached its peak when the Judicial Commission attempted to investigate several Supreme Court justices over alleged code of ethics violations. In response, 31 Supreme Court justices filed a judicial review petition against Law Nomor 22 of 2004 concerning the Judicial Commission with the Constitutional Court.¹⁸ Constitutional Court Ruling Number: 005/PUU-IV/2006 became a historic milestone that effectively crippled much of the Judicial Commission's authority. In this decision, the Court ruled that Supreme Court justices and Constitutional Court justices are not subject to the Commission's oversight, arguing that external supervision of judges at the highest level could threaten judicial independence.¹⁹ The impact of the 2006 ruling was the fragmentation of the judicial oversight system. Oversight of Supreme Court justices—who are theoretically most vulnerable to the temptations of power due to their extensive authority—was effectively withdrawn and became entirely internal within the Supreme Court. This raised concerns regarding potential conflicts of interest and a lack of transparency in disciplinary processes. Although the Judicial Commission continues to receive thousands of public complaints annually, the effectiveness of follow-up actions heavily depends on the Supreme Court's willingness to cooperate. Consequently, disciplinary recommendations often remain merely on paper without actual enforcement by the Supreme Court leadership.

This fragmentation was further exacerbated by Constitutional Court Ruling Number 43/PUU-XIII/2015, which revoked the Judicial Commission authority in the recruitment process for first-instance judges. Prior to this ruling, Law Number 49 of 2009 and other related judicial laws mandated that judge selection be conducted jointly by the Supreme Court and the Judicial Commission to ensure transparency and accountability.²⁰ However, the Constitutional Court argued that judge selection is part of personnel management that must remain under the

¹⁷ Jimly Asshiddiqie, *Putih Hitam Pengadilan Khusus* (Jakarta: Komisi Yudisial, 2013).

¹⁸ Muzayin Mahbub, *Dialektika Pembaruan Sistem Hukum Indonesia* (Jakarta: Komisi Yudisial, 2012).

¹⁹ Parameswary et al., "Reconfiguring Judicial Oversight in Indonesia: The Judicial Commission and the Constitutional Limits of Judicial Integrity Enforcement."

²⁰ Mahkamah Konstitusi RI, "Ikhtisar Putusan Perkara Nomor 43/PUU-XIII/2015 Tentang Keterlibatan Komisi Yudisial Dalam Proses Seleksi Pengangkatan Hakim Pengadilan Negeri, Pengadilan Agama, Dan Pengadilan Tata Usaha Negara," 2015, https://www.mkri.id/public/content/persidangan/sinopsis/ikhtisar_1723_1406_43-PUU-XIII-2015-ok.pdf.

exclusive control of the Supreme Court, as a consequence of the "one-roof system."²¹ This ruling effectively eliminated the checks and balances function in judicial human resource management, which, according to observers, may open the door to nepotism and a decline in integrity standards right from the initial recruitment stage.²²

The following table presents a summary of the evolution of supervisory authority in Indonesia based on judicial intervention from the Constitutional Court:

Institutional Phase	Main Legal Basis	Supervisory Authority Status	Implications for Accountability
Post-Amendment of the Constitution (2001-2004)	Article 24B of the 1945 Constitution	Judicial Commission was formed as an independent and strong external supervisor.	High hopes for a clean and transparent judiciary.
Early Operational Era (2005-2006)	Law Number 22 of 2004	The Judicial Commission has the authority to supervise all judges, including supreme court justices.	The emergence of open conflict between the Judicial Commission and Supreme Court regarding the examination of supreme court judges.
Pasca-Putusan MK 005/2006	Constitutional Court Decision No. 005/PUU-IV/2006	Supreme Court Justices and Constitutional Court Justices are exempt from Judicial Commission supervision.	Fragmentation of the oversight system; weakening of external accountability.
Post-MK Decision 43/2015	Constitutional Court Decision No. 43/PUU-XIII/2015	Judicial Commission loses authority in recruiting first-level judges.	The Supreme Court holds sole control over the management of judges (from recruitment to discipline).
Reform Discourse (2024-2025)	Judicial Commission Bill	The proposal to strengthen the Judicial Commission	Efforts to restore the dignity of the Judicial

²¹ Asep Nursobah, "Putusan MK No 43/PUU-XIII/2015: Proses Rekrutmen Hakim Tingkat Pertama Tidak Perlu Melibatkan KY," *Kepaniteraan Mahkamah Agung*, 2015, <https://kepaniteraan.mahkamahagung.go.id/registry-news/1181-putusan-mk-no-43-puu-xiii-2015-proses-seleksi-hakim-tingkat-pertama-tidak-perlu-melibatkan-ky>.

²² Radinus, "Analisis Putusan Mahkamah Konstitusi Nomor 43/PUU-XIII/2015 Berkaitan Dengan Pengujian Undang-Undang Yang Memberikan Kewenangan Kepada Komisi Yudisial Dalam Proses Seleksi Dan Pengangkatan Hakim Di Indonesia," *Gloria Yuris Jurnal Hukum* 5, no. 3 (2017), <https://jurnal.untan.ac.id/index.php/jmfh/article/view/19808>.

recommendations so Commission amidst a crisis
that they are final and of public trust.²⁴
binding.²³

Conceptually, the phenomenon in Indonesia shows an "*over-prioritization*" of judicial independence which is detrimental to the principle of accountability.²⁵ The Supreme Court often uses the narrative of independence as a shield to avoid external oversight, which ultimately fosters an environment conducive to judicial corruption. Since 2010, more than 20 judges have been proven to have accepted bribes, with increasingly bold *modus operandi*, including negotiating bribes inside judges' chambers.²⁶ Independence, narrowly understood as freedom from any form of oversight, has created what experts refer to as an "isolated judiciary" a judicial system detached from public values.²⁷

In the context of judge management, the "one-roof system" implemented in Indonesia – where technical, administrative, financial, and organizational matters fall under the Supreme Court – should be accompanied by strong external control.²⁸ However, the reality shows that without the involvement of the Judicial Commission in vital aspects such as recruitment and binding sanctions, the potential for abuse of power by judicial leaders becomes very significant.²⁹ The conflict of perception between the Judicial Commission and the Supreme Court regarding the scope of the code of conduct often serves as a loophole for problematic judges to evade sanctions, on the grounds that their actions are part of "judicial freedom" in deciding cases.³⁰

Facing these challenges, there is an urgent need to reconceptualize the role of the Judicial Commission. Several studies suggest that Judicial Commission should not merely function as

²³ Abdul Chair Ramadhan, "KY Usul RUU Komisi Yudisial Atur Putusan Jadi Final and Binding," 2026, <https://www.antaraneews.com/berita/5514017/ky-usul-ruu-komisi-yudisial-atur-putusan-jadi-final-and-binding>.

²⁴ Abdul Chair Ramadhan, "Komisi Yudisial Tegaskan Komitmen Perkuat Independensi Dan Mutu Peradilan," Kementerian Sekretariat Negara RI, 2025, https://www.setneg.go.id/baca/index/komisi_yudisial_tegaskan_komitmen_perkuat_independensi_dan_mutu_peradilan.

²⁵ Butt, "Constitutional Court Decisions on the Judicial Independence of Other Indonesian Courts."

²⁶ Butt.

²⁷ Ibnu Sina Chandranegara, "Defining Judicial Independence and Accountability Post Political Transition," *Constitutional Review* 5, no. 2 (2019): 294–329, <https://consrev.mkri.id/index.php/const-rev/article/view/525/468>.

²⁸ Suparto, "The Comparison Between the Judicial Commission of the Republic of Indonesia and the Netherlands Council for the Judiciary," *UNIFIKASI: Jurnal Ilmu Hukum*, 2019, <https://doi.org/10.25134/unifikasi.v6i1.1527>.

²⁹ Umi Illiyina, "Pasang Surut Komisi Yudisial: Kreasi, Resistensi Dan Restorasi," *Jurnal Konstitusi* 8, no. 3 (2011): 391–425, <https://doi.org/10.31078/jk837>.

³⁰ Butt, "Constitutional Court Decisions on the Judicial Independence of Other Indonesian Courts."

an «external auditor» of conduct, but should also be granted a more substantive role in judges' career management such as promotions and transfers which has thus far remained a closed domain of the Supreme Court.³¹ In European countries such as the Netherlands, the judicial council has extensive authority to manage the judiciary's budget and organization, allowing the Supreme Court to focus entirely on its judicial functions.³² In Indonesia, the opposite model occurs; the Supreme Court bears an enormous administrative burden while simultaneously striving to insulate itself from oversight by the Judicial Commission, resulting in the frequent sacrifice of judicial efficiency and integrity.³³

This tension is also influenced by political dynamics outside the judiciary. Efforts to strengthen the Judicial Commission through legislative amendments are often hindered by political interests within the House of Representatives or a lack of support from the executive branch. Conversely, when the Constitutional Court itself becomes entangled in integrity issues such as the case of unlawful alteration of decisions by constitutional justices public trust in the entire judicial system declines sharply.³⁴ In such circumstances, the Judicial Commission should serve as the last bastion to restore the judiciary's image. However, the limitations of its constitutional authority resulting from the "amputation" by the Constitutional Court often render this institution seemingly toothless.³⁵

Overall, the fragmentation of supervisory authority in Indonesia reflects a failure to build consensus on how independence and accountability should work synergistically. Judicial independence is not a privilege for judges, but rather the right of citizens to receive justice that is honest and impartial.³⁶ Without an effective external oversight mechanism, "God's Deputy"

³¹ Suparto, "Kedudukan Dan Kewenangan Komisi Yudisial Republik Kedudukan Dan Kewenangan Komisi Yudisial Republik Indonesia Dan Perbandingannya Dengan Komisi Indonesia Dan Perbandingannya Dengan Komisi Yudisial Di Beberapa Negara Eropa," *Jurnal Hukum & Pembangunan* 47, no. 4 (2017): 497–516, <https://doi.org/10.21143/jhp.vol47.no4.1585>.

³² Suparto, "The Comparison Between the Judicial Commission of the Republic of Indonesia and the Netherlands Council for the Judiciary."

³³ Saharuddin, "Judicial Review and Constitutional Court Authority: Comparative Analysis of Indonesia's Constitutional Court and International Best Practices," *Proceeding of the International Conference on Law and Human Rights* 2, no. 1 (2025): 12–18, <https://doi.org/10.62383/iclehr.v2i1.48>.

³⁴ Narwadan, Mulyana, and Fauzan, "The Constitutional Court's Position as the Guardian of the Constitution: Between Independence and Political Intervention."

³⁵ Parameswary et al., "Reconfiguring Judicial Oversight in Indonesia: The Judicial Commission and the Constitutional Limits of Judicial Integrity Enforcement."

³⁶ Simon Butt, "The Constitutional Court's Decision in the Dispute between the Supreme Court and the Judicial Commission: Banishing Judicial Accountability?," in *Democracy and the Promise of Good Governance*, ed. Andrew MacIntyre and Ross McLeod (Singapore: Institute of Southeast Asian Studies, 2009), 178–200, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1400524.

or God's representative on earth risks falling into the temptation of uncontrolled power.³⁷ The ideal oversight concept should be complementary, where the Supreme Court conducts technical judicial supervision and the Judicial Commission oversees ethics objectively, with clear dispute resolution mechanisms when the two institutions hold differing views.³⁸

B. Transformation of the Judicial Oversight Authority in Türkiye Post-2017 Reforms: Executive Centralization and the Risk of Judicial Capture

Unlike Indonesia, which experiences fragmented oversight due to judicial resistance against external bodies, Turkey presents a model of reconfiguration moving toward the centralization of power in the hands of the executive. The Turkish Constitutional Reform of 2017, adopted via referendum during a state of emergency, has fundamentally altered the architecture of judicial power in the country.³⁹ At the heart of this transformation is the restructuring of the Council of Judges and Prosecutors into an institution that is highly dependent on the will of the president and the majority-controlled parliament.⁴⁰ Before this reform, Turkey's 2010 model of the High Council of Judges and Prosecutors (formerly known as Council of Judges and Prosecutors) was praised for granting voting rights to thousands of judges and prosecutors to elect their own representatives within the council.⁴¹ However, that model has now been completely abandoned.

Based on the amendment to Article 159 of the Turkish Constitution, the number of High Council of Judges and Prosecutors members has been reduced from 22 to 13 full members.⁴² The most significant change is not in the number, but in the appointment method. Out of the 13 members, the President of the Republic directly appoints 4 members, while the remaining 7 are elected by the Grand National Assembly of Turkey (GNAT) through a qualified majority vote.⁴³ The remaining two members are the Minister of Justice (who serves as President of the Council of Judges and Prosecutors) and the Deputy Minister of Justice.⁴⁴ In a system where the

³⁷ Butt, "Constitutional Court Decisions on the Judicial Independence of Other Indonesian Courts."

³⁸ Fairuz Zahirah Zihni Hamdan, Dwi Rahayu Kristianti, and Vincentius Verdian, "Limitation of Misconduct of Judges: Increasing The Synergy of Supervision of Judges by The Judicial Commission and The Supreme Court," *Yuridika* 38, no. 2 (2023): 371-88, <https://doi.org/10.20473/ydk.v38i2.45472>.

³⁹ Yazıcı, "Constitutional Amendments of 2017: Transition to Presidentialism in Turkey."

⁴⁰ Esen, "The 2017 Constitutional Reforms in Turkey: Removal of Parliamentarism or Democracy?"

⁴¹ Judicial Reform Strategy and Judicial Independence, *Turkey's Judicial Reform Strategy and Judicial Independence*.

⁴² Esen, "The 2017 Constitutional Reforms in Turkey: Removal of Parliamentarism or Democracy?"

⁴³ Esen.

⁴⁴ Judicial Reform Strategy and Judicial Independence, *Turkey's Judicial Reform Strategy and Judicial Independence*.

president is also the head of a political party and controls a parliamentary majority, practically all 13 members of the HSK are under the direct or indirect political influence of the executive.⁴⁵

This centralization has profound legal and political implications. The Venice Commission stated that this new structure gives the executive complete control over the body that is supposed to guarantee the independence and security of judges' tenure.⁴⁶ One of the most tangible examples of this abuse of authority is the wave of mass dismissals and reassignments of judges after 2016. One-third of all judges and prosecutors in Turkey were removed without adequate individual investigation procedures, often based merely on vague allegations of "affiliation" with banned groups.⁴⁷ This creates a "chilling effect" where remaining judges feel afraid to issue rulings contrary to government interests, as the risk of dismissal or forced transfer to remote regions constantly looms over them.⁴⁸

The following table compares the structure of judicial oversight authorities between Indonesia and Türkiye following the recent reconfiguration:

Comparative Characteristics	Judicial Commission (Indonesia)	Council of Judges and Prosecutors (Turki)	Comparative Analysis
Institutional Model	Independent state institution (Auxiliary Body). ⁴⁹	Integrated Judicial Council (<i>Governing Body</i>). ⁵⁰	Türkiye has broader management authority but is less de facto independent. ⁵¹
Designation Method	Proposed by the President with the approval of the House Representatives (7 members). ⁵²	4 appointed by the President, 7 elected by Parliament, 2 ex officio executive. ⁵³	Both countries have political engagement, but Türkiye has eliminated peer representation entirely. ⁵⁴

⁴⁵ Judicial Reform Strategy and Judicial Independence.

⁴⁶ The Arrested Lawyers Initiative, "Venice Commission/CoE: Executive Branch Controls the Turkish Judiciary," 2024, <https://arrestedlawyers.org/2024/12/23/venice-commission-coe-executive-branch-controls-the-turkish-judiciary/>.

⁴⁷ Judicial Reform Strategy and Judicial Independence, *Turkey's Judicial Reform Strategy and Judicial Independence*.

⁴⁸ Stockholm Center for Freedom, "Turkey's Top Judicial Board Is under 'Complete' Executive Control: Venice Commission," 2024, <https://stockholmcfr.org/turkeys-top-judicial-board-is-under-complete-executive-control-venice-commission/>.

⁴⁹ Suparto, "Kedudukan Dan Kewenangan Komisi Yudisial Republik Kedudukan Dan Kewenangan Komisi Yudisial Republik Indonesia Dan Perbandingannya Dengan Komisi Indonesia Dan Perbandingannya Dengan Komisi Yudisial Di Beberapa Negara Eropa."

⁵⁰ Judicial Reform Strategy and Judicial Independence, *Turkey's Judicial Reform Strategy and Judicial Independence*.

⁵¹ Judicial Reform Strategy and Judicial Independence.

⁵² Atang Iriawan et al., *Studi Perbandingan Komisi Yudisial Di Beberapa Negara*, ed. W. Eka Putra (Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2014).

⁵³ Judicial Reform Strategy and Judicial Independence, *Turkey's Judicial Reform Strategy and Judicial Independence*.

⁵⁴ The Arrested Lawyers Initiative, "Venice Commission/CoE: Executive Branch Controls the Turkish Judiciary."

Management Authority	Limited to behavioral monitoring and CHA suggestions; recruitment lost. ⁵⁵	Very recruitment, promotion, discipline, dismissal. ⁵⁶	broad: transfer, and	The concentration of power in Türkiye's Council of Judges and Prosecutors is very high, making it easier for judicial capture to occur. ⁵⁷
Relationship with Supreme Court	Frequently in conflict; Judicial Commission recommendations are often ignored by the Supreme Court.	Council of Judges and Prosecutors mendominasi Supreme Court; The Minister of Justice leads the supervisory board. ⁵⁸		Di Indonesia MA menolak diawasi; di Turki Supreme Court ditundukkan oleh dewan pengawas bentukan eksekutif. ⁵⁹
International Standards	Considered closer to the checks and balances model, although weak. ⁶⁰	Heavily criticized by the Venice Commission and the ECtHR as a violation of independence. ⁶¹		Türkiye became an "outlier" in Europe due to the loss of structural independence. ⁶²

Analysis of the Turkish case reveals a highly aggressive phenomenon of "judicial capture." Unlike in Indonesia, where supervisory authority has become fragmented and weakened due to power struggles between institutions (the Judicial Commission vs. the Supreme Court), in Turkey the authority has actually been strengthened but placed firmly under the control of a single individual: the president.⁶³ The Turkish Minister of Justice holds strategic authority to grant approval for inspections and investigations concerning judges, meaning the executive branch holds the key to judicial disciplinary mechanisms. Consequently, the function of judicial oversight in Turkey has shifted from guaranteeing quality to becoming an instrument of political loyalty.⁶⁴ From a legal-political perspective, Turkey's reconfiguration can be understood through the theory of "*Comparative Political Process*." The Turkish government used

⁵⁵ Parameswary et al., "Reconfiguring Judicial Oversight in Indonesia: The Judicial Commission and the Constitutional Limits of Judicial Integrity Enforcement."

⁵⁶ Judicial Reform Strategy and Judicial Independence, *Turkey's Judicial Reform Strategy and Judicial Independence*.

⁵⁷ Judicial Reform Strategy and Judicial Independence.

⁵⁸ Judicial Reform Strategy and Judicial Independence.

⁵⁹ Esen, "The 2017 Constitutional Reforms in Turkey: Removal of Parliamentarism or Democracy?"

⁶⁰ Ikhsan Azhar, "Manajemen Hakim (Studi Perbandingan Indonesia Dengan Turki)," *Mulawarman Law Review* 3, no. 1 (2018): 48–65, <https://doi.org/10.30872/mulrev.v3i1.33>.

⁶¹ The Arrested Lawyers Initiative, "Venice Commission/CoE: Executive Branch Controls the Turkish Judiciary."

⁶² Stockholm Center for Freedom, "Turkey's Top Judicial Board Is under 'Complete' Executive Control: Venice Commission."

⁶³ Yazıcı, "Constitutional Amendments of 2017: Transition to Presidentialism in Turkey."

⁶⁴ Judicial Reform Strategy and Judicial Independence, *Turkey's Judicial Reform Strategy and Judicial Independence*.

the national security crisis (post-coup) as a pretext for "court-packing" and restructuring the judicial system to eliminate political opponents and ensure the judiciary no longer impedes government policy.⁶⁵ The elimination of the internal election system (peer election) for supreme court judges and prosecutors is considered a very big step backwards from the principle of the rule of law, because it eliminates the professional autonomy of judges in regulating themselves.⁶⁶ The impact of this centralization extends not only to judges' careers but also to the quality of justice for citizens. The European Court of Human Rights, in several landmark judgments such as the cases of Selahattin Demirtaş and Osman Kavala has confirmed that Turkey uses judicial power for hidden political purposes.⁶⁷ The detention of senior judges without concrete evidence of criminal wrongdoing has undermined the right to a fair trial.⁶⁸ This crisis is exacerbated by the loss of security of tenure, where judges can be transferred or dismissed at any time by the HSK without an effective appeal process.⁶⁹

A comparison between Indonesia and Turkey in this regard provides profound insight. In Indonesia, the weakening of external oversight (Judicial Commission) occurred due to the Supreme Court's "institutional egoism," which sought autonomy without accountability.⁷⁰ In Türkiye, the weakening of independence occurred due to "executive ambition" which wanted to subjugate the judiciary through a co-opted supervisory board.⁷¹ Although the paths differ, the result is the same: the destruction of the balance between judicial independence and accountability. Indonesia faces the risk of uncontrolled internal corruption, while Turkey risks the judiciary becoming an instrument of political oppression.⁷²

The future challenge for both countries is how to rebuild the credibility of judicial oversight bodies. In Turkey, international pressure from the Council of Europe demands legislative

⁶⁵ Narwadan, Mulyana, and Fauzan, "The Constitutional Court's Position as the Guardian of the Constitution: Between Independence and Political Intervention."

⁶⁶ Judicial Reform Strategy and Judicial Independence, *Turkey's Judicial Reform Strategy and Judicial Independence*.

⁶⁷ Magistrats européens pour la démocratie et les libertés, "MEDEL's Voice for Rule of Law in Türkiye," 2025, <https://medelnet.eu/medels-voice-for-rule-of-law-in-turkiye/>.

⁶⁸ ASSEDEL, "The Rule of Law and Democracy in Türkiye," *Submission of Assedel for the UN Universal Periodic Review for Türkiye 49th Session of the UPR Working Group*, 2025, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=13895&file=EnglishTranslation>.

⁶⁹ Judicial Reform Strategy and Judicial Independence, *Turkey's Judicial Reform Strategy and Judicial Independence*.

⁷⁰ Butt, "Constitutional Court Decisions on the Judicial Independence of Other Indonesian Courts."

⁷¹ Judicial Reform Strategy and Judicial Independence, *Turkey's Judicial Reform Strategy and Judicial Independence*.

⁷² Narwadan, Mulyana, and Fauzan, "The Constitutional Court's Position as the Guardian of the Constitution: Between Independence and Political Intervention."

amendments to reinstate the system of election by judicial peers and remove the Minister of Justice from the High Council of Judges and Prosecutors structure.⁷³ D In Indonesia, demands from civil society focus on strengthening the binding status of the Judicial Commission's recommendations and reinvolving the Judicial Commission's in judge selection to prevent the formation of dynasties within the Supreme Court.⁷⁴ These two models demonstrate that the design of supervisory authority is not merely a matter of legal technicalities, but rather a reflection of a nation's political commitment to democratic values and human rights.⁷⁵

CONCLUSION

This study demonstrates that the institutional design of judicial oversight is central to the relationship between judicial independence and accountability. The comparison between Indonesia and Türkiye reveals two distinct pathways through which this balance may be disrupted. In Indonesia, constitutional adjudication and institutional resistance have progressively constrained the external supervisory role of the Judicial Commission, resulting in fragmented accountability and a stronger concentration of internal judicial management within the Supreme Court. In Türkiye, by contrast, constitutional restructuring has concentrated judicial appointment, disciplinary, and career-related authority within the Council of Judges and Prosecutors under a framework characterized by substantial political influence. The comparative significance of these findings lies not in treating the two systems as institutionally equivalent, but in demonstrating that weakened judicial accountability can emerge through different mechanisms. Indonesia illustrates a pathway of oversight fragmentation, in which external accountability is progressively restricted in the name of judicial independence. Türkiye illustrates a pathway of oversight centralization, in which formally extensive supervisory powers may become problematic when the institution exercising those powers lacks sufficient structural independence from political authorities. These contrasting trajectories suggest that neither purely internal judicial self-supervision nor politically dependent centralized oversight provides an adequate institutional solution. The

⁷³ Stockholm Center for Freedom, "Turkey's Top Judicial Board Is under 'Complete' Executive Control: Venice Commission."

⁷⁴ Komisi Yudisial, "Penghubung KY," Komisi Yudisial RI, 2023, https://komisiyudisial.go.id/frontend/liason_ky/liason_ky/about_ky.

⁷⁵ Teodora Milojković, "Reframing Judicial Appointments: Rule of Law as a Constraint on Political Manipulation," *E-Publica: Public Law Journal* 12, no. 2 (2025): 26–51, <https://revistas.rcaap.pt/epublica/article/download/45775/30889>.

study therefore proposes that judicial oversight should be designed around three mutually reinforcing principles: institutional independence of the oversight body, clearly delimited jurisdiction over judicial conduct and career management, and effective procedural safeguards against both judicial self-insulation and political interference. In the Indonesian context, strengthening the Judicial Commission should be accompanied by clearly defined boundaries between ethical and technical judicial supervision, transparent appointment and disciplinary procedures, and effective mechanisms for resolving institutional disputes. In Türkiye, the central concern is the strengthening of structural safeguards against political influence in judicial appointments, discipline, and career management. The broader contribution of the comparison is to distinguish institutional fragmentation from executive centralization as two different pathways through which judicial accountability may deteriorate. Future comparative research should examine additional jurisdictions to determine whether this typology can explain other patterns of judicial institutional transformation and to identify institutional arrangements capable of reconciling judicial independence with meaningful public accountability.

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