



ISSN Print 2615-5648
ISSN Online 2615-174X

Editorial Office: Faculty of Sharia, Universitas Islam Negeri Profesor Kiai Haji Saifuddin Zuhri Purwokerto, Indonesia, Jalan Jend. A. Yani No. 40 A Purwokerto Jawa Tengah 531226 Indonesia
Phone: +62281-635624 Fax: +62281- 636653
E-mail: volksgeist@uinsaizu.ac.id
Website: <http://ejournal.uinsaizu.ac.id/index.php/volksgeist>

Non-Judicial Activities of the Indonesian Constitutional Court: Do They Foster Judicial Reputation?

Article	Abstract
<p>Author Radian Salman¹*, M. Adib Akmal Hamdi¹, Rosa Riswati¹, Sascha Hardt².</p> <p>¹ Faculty of Law, Universitas Airlangga, Indonesia ² Faculty of Law, Maastricht University, Netherlands</p> <p>Corresponding Author: * Radian Salman, Email: radian.salman@fh.unair.ac.id</p> <p>Data: Received: Aug 28, 2024; Accepted: Jun 06, 2025 Published: Jun 24, 2025</p> <p>DOI: 10.24090/volksgeist.v8i1.12239</p>	<p>The Indonesian Constitutional Court is defined as a judicial body with specific competencies as stated in the 1945 Constitution. Given its significance and the heightened attention it receives from the public, the rulings of independent courts and impartial judges are vital for maintaining the reputation of the Indonesian judiciary and the public's confidence in its work. In addition to adjudicating cases, the Constitutional Court and its judges are involved in various non-judicial activities. This research article explores the reasons behind the Constitutional Court's engagement in these activities, outlines the various types of non-judicial actions, and evaluates their effect on the court's reputation. The aim of this research is to establish a conceptual framework and assess the influence of non-judicial activities on judicial reputation by utilizing conceptual, statutory, and comparative frameworks, supported by empirical data from official documents. Top of Form The results show that the court participates in non-judicial activities to obtain benefits like increased popularity, public interest, visibility, preventing its decisions from being overturned by other judicial entities, and enhancing its reputation and influence. Often, these activities involve promoting the court's work to both local and international judicial communities to foster dialogue and connections with similar courts and stakeholders. Furthermore, non-judicial activities can influence public interest and engagement. While these initiatives benefit the institution, judges, and the public, they do not inherently improve the Constitutional Court's reputation, as its standing fundamentally relies on the quality of its decisions and its credible independence, impartiality, and integrity.</p> <p>Keywords: <i>Constitutional court; non-judicial activities; independence.</i></p>

©2025; This is an Open Access Research distributed under the term of the Creative Commons Attribution Licencee (<https://creativecommons.org/licenses/by/4.0>), which permits unrestricted use, distribution, and reproduction in any medium, provided the original works is properly cited.

INTRODUCTION

The independence and impartiality of the judiciary represents its most valuable assets. Judicial independence essentially means being free from interference by external force, whether from other branches of government or non-state actors.¹ Safeguarding these essential judicial principles is

¹ Basic Principles on the Independence of the Judiciary Adopted by the Seventh United Nations Congress on the

vital for the effective operation of the legal system since, in any jurisdiction, the judiciary plays a central role in enforcing the law. In Indonesia, the Constitutional Court stands as one of the premier judicial institutions, alongside the Supreme Court, with its independence ensured by the constitution. As part of the judicial branch, the Court's primary responsibility is to examine and resolve cases within its jurisdiction, as outlined in Article 24C, paragraphs (1) and (2) of the 1945 Constitution of the Republic of Indonesia. These responsibilities include: adjudicating as the first and final instance, reviewing laws for constitutional compliance, resolving jurisdictional disputes among state institutions authorized by the Constitution, ruling on the dissolution of political parties, and addressing disputes regarding the outcomes of general elections.

Therefore, the judiciary's main role is to adjudicate and evaluate cases. This fundamental responsibility carries significant implications for the judiciary's reputation and public confidence. Judges, by exercising judicial power through their rulings, are critical to the court's reputation. Carissima Mathen highlights that the judiciary should refrain from activities beyond hearing "facts and legal rules," particularly when it might lead into political matters and steer clear of political debates and controversy.² If judges engage in non-judicial activities—whether directly or indirectly—related to political discussions, it could jeopardize the principle of independence and impartiality that judicial power upholds as an institution entrusted by the public to maintain the rule of law. Jack Beatson underscores that judges should consistently confine their actions to their judicial roles, uphold a high reputation and public trust, and steer clear of matters that may be presented to the court for judicial determination.³

Nevertheless, it is evident that judicial institutions also engage in numerous activities that are completely unrelated to their primary role of examining and deciding cases. Since its establishment, the Indonesian Constitutional Court has consistently undertaken scholarly initiatives, including publishing books, participating in discussions about constitutional literature, and joining international symposiums like the Indonesian Constitutional Court International Symposium (ICCIS). Additionally, the Court has been involved in national-level competitions such as constitutional moot court contests among universities (Constitutional Moot Court Competition - CMCC) and student debates centered on constitutional topics. Members of the Court have also taken part in and organized meetings and dialogues⁴ related to constitutional issues with judicial bodies at the Asian

Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985.

² Carissima Mathen, *Courts Without Cases: The Law and Politics of Advisory Opinions* (S.L.: Hart Publishing, 2020), 62.

³ Jack Beatson, "Should Judges Conduct Public Inquiries," *Israel Law Review* 37, no. 2–3 (2004): 241.

⁴ The conceptual terminology of judicial/constitutional dialogue is a term that lacks a universally agreed-upon meaning and is therefore open to multiple interpretations. For a conceptual-theoretical comparison, refer to Anne Meuwese dan Marnix Snel, "'Constitutional Dialogue': An Overview," *Utrecht Law Review* 9, no. 2 (25 March 2013): 134, <https://doi.org/10.18352/ulr.231>; This article takes the position that judicial/constitutional dialogue refers to the judicial power's activity of engaging, communicating, and discussing substantive legal issues extensively with the judicial power of other jurisdictions. Judges engage in dialogue on constitutional issues based on a shared commitment, as articulated by Guido Calabresi, to be part of the adjudicative body of the global community. With such awareness, there is no distinction in judicial power due to different legal systems, constitutions, or other differences. The global judicial community collectively addresses legal issues, interprets universal principles, and applies them to domestic law enforcement to the fullest extent possible. Further insights can be found in these articles Melissa A. Waters, "Mediating Norms and Identity: The Role of Transnational Judicial Dialogue in Creating and Enforcing International Law," *The Georgetown Law Journal* 93, no. 2 (2005): 492; Claire L'Heureux-Dube, "The Importance of Dialogue: Globalization and the International Impact of the Rehnquist Court," *Tulsa*

level through the Association of Constitutional Courts and Equivalent Institutions (AACC), as well as the global level through events like The World Conference on Constitutional Justice (WCCJ).

Beyond merely adjudicating cases, the Constitutional Court has established the Pancasila and Constitution Education Center, as well as the Constitutional History Center. To promote the dissemination of decisions and academic discussions, the Court manages the Constitutional Journal and the Constitutional Review Journal (Consrev). While these initiatives mainly attribute to the institution itself rather than to individual judges, they nonetheless affect the judges, particularly in that constitutional judges have participated in various activities that extend beyond their primary responsibilities.

From a personnel standpoint, this raises questions regarding the dualism of judges' roles. As individuals, judges have the rights and opportunities akin to those of other citizens. They can engage in a range of activities unrelated to their judicial functions, referred to as non-judicial or extrajudicial activities, such as enhancing their writing skills, delivering lectures at seminars, conferences, and symposiums, conducting study visits to courts in other countries, and more. However, from a professional standpoint, judges are restricted from holding any other government positions, becoming members of political parties, or engaging as entrepreneurs, lawyers, or civil servants. Judges are also barred from making public statements about cases that are under review, will soon be decided, or have already been decided, whether those decisions are theirs or those made by other constitutional judges. Furthermore, judges are prohibited from publicly commenting on the dissenting opinions of their fellow constitutional judges.

The activities undertaken by the Constitutional Court and its judges demonstrate that the role of the judiciary goes beyond simply resolving legal cases to encompass non-judicial engagements as well. This situation raises important questions and implications, which are central to this research. Specifically, this study aims to explore the reasons behind the wide array of activities pursued by the Constitutional Court and its judges outside their judicial responsibilities, as well as whether these non-judicial activities affect the Court's reputation and the public's trust in it. The article focuses on these conceptual and practical inquiries by first aiming to define what constitute non-judicial activities within the judiciary. It will then identify various non-judicial activities of the Constitutional Court and examine their reasons and potential impacts on the Court's reputation.

Research on the non-judicial activities of Indonesian Constitutional Court and its judges are relatively limited. One article published in the Journal of Constitutional Law, titled “*Convergence of Constitutional Interpretation to the Test of Laws Through a Constitutional Dialogue Approach*,”⁵ highlights a model of constitutional dialogue that could be utilized following the Court's rulings on specific cases. However, non-judicial activities encompass a broader and more complex concept than just constitutional dialogue. Outside the Indonesian legal context, there has been progress in this area of research. McKay, in his 1970 article “The Judiciary and Nonjudicial Activities,”⁶ outlined various forms of non-judicial activities engaged in by judges in the United States. This study will utilize this prior research as an analytical framework, applying the supply and demand theory

Law Journal 34, no. 1 (1998): 21; Anne-Marie Slaughter, *A New World Order* (Princeton University Press, 2004), 85.

⁵ Ahmad Ahmad, Fence M. Wantu, dan Dian Ekawaty Ismail, “Convergence of Constitutional Interpretation to the Test of Laws Through a Constitutional Dialogue Approach: Konvergensi Penafsiran Konstitusional Terhadap Pengujian Undang-Undang Melalui Pendekatan Constitutional Dialogue,” *Jurnal Konstitusi* 20, no. 3 (1 September 2023): 514–35, <https://doi.org/10.31078/jk2038>.

⁶ Robert B. McKay, “The Judiciary and Nonjudicial Activities,” *Law and Contemporary Problems* 35, no. 1 (1970): 9.

proposed by Nuno Garoupa and Tom Ginsburg to explain the reasons for the Constitutional Court's involvement in non-judicial activities.⁷ Additionally, the theory of judicial reputation introduced by Garoupa and Ginsburg,⁸ Shai Dothan,⁹ dan Roy Shapira¹⁰ will be employed to analyze the implications of the non-judicial activities of the Constitutional Court in shaping the reputation and independence of judicial power.

RESEARCH METHOD

This research utilizes the socio-legal method, an interdisciplinary approach that examines law as a social phenomenon. The objective is to understand the relationship between law and society, as well as how laws and legal systems both shape and are influenced by social, economic, and cultural factors. Within this framework, the focus is on how the Constitutional Court, as a judicial authority defined by the 1945 Constitution and relevant laws, exercises its power in ways not directly related to its judicial functions.

As relatively a new area of study exploring the non-judicial activities of judicial power in Indonesia, a conceptual approach is employed to differentiate between primary and non-primary judicial functions. A statutory approach to analyze the regulations that govern the powers of the Constitutional Court. Moreover, the research will gather empirical evidence from various relevant official documents, including quantitative data, to assess the actual implementation of non-judicial activities. The analysis of this empirical evidence will use the supply and demand theory proposed by Nuno Garoupa and Tom Ginsburg, as well as a comparative approach.

ANALYSIS AND DISCUSSION

Concept of Non-Judicial Activities of the Constitutional Court

The term “Non-Judicial Activities” performed by the judiciary is referred to by various names, such as non-judicial functions¹¹ or roles, extrajudicial activity,¹² and non-judicial activity.¹³ Bryan

⁷ Nuno Garoupa dan Tom Ginsburg, “Judicial Roles in Nonjudicial Functions,” *University of Chicago Public Law & Legal Theory Working Paper*, no. 460 (2014): 761.

⁸ Nuno Garoupa dan Tom Ginsburg, “Judicial Audiences and Reputation: Perspectives from Comparative Law,” *Columbia Journal of Transnational Law* 47, no. 3 (2009): 451.

⁹ Shai Dothan, *Reputation and Judicial Tactics: A Theory of National and International Courts* (New York: Cambridge University Press, 2015).

¹⁰ Roy Shapira, *Law and Reputation: How the Legal System Shapes Behavior by Producing Information* (Cambridge: Cambridge University Press, 2020).

¹¹ Several constitutional law experts who use this term namely: Patrick Emerton, H.P Lee, Patrick Monahan, Cora Hoexter, Byron Shaw, Geoffrey Palmer, Abimbola Olowofoyeku, Jeffrey M. Shaman, Nuno Garoupa, dan Tom Ginsburg. See furthermore H.P Lee, *Judiciaries in Comparative Perspective* (New York: Cambridge University Press, 2011), 403–540.

¹² Some experts like Peter Alan Bell, Russell Wheeler, and Leslie B. Dubeck also employ this term. The use of “extra-judicial activity” is a terminology found in the code of judicial conduct of state courts in the United States and in the ethical code of conduct in the Bangalore Principles. Furthermore, look at the several articles Peter Alan Bell, “Extrajudicial Activity of Supreme Court Justices,” *Stanford Law Review* 22, no. 3 (1970): 587; Russell Wheeler, “Extrajudicial Activities of United States Supreme Court Justices: The Constitutional Period, 1790-1809” (University of Chicago, 1970), 1; Leslie B. Dubeck, “Understanding ‘Judicial Lockjaw’: The Debate over Extrajudicial Activity,” *New York University Law Review* 82, no. 2 (2007): 569.

¹³ Constitutional law experts who use the term “non-judicial activity” include Robert B. McKay. See furthermore Robert B. McKay, “Judges, the Code of Judicial Conduct, and Nonjudicial Activities,” *Utah Law Review* 391 (1972): 391; McKay, “The Judiciary and Nonjudicial Activities,” 9.

A. Garner defines “extrajudicial” in *Black’s Law Dictionary* as referring to anything “out of court” or “outside the court system.”¹⁴ Similarly, Bouvier describes extrajudicial (from the Latin *extra judicium*) as a decision or action taken by a court that lacks jurisdiction over the subject matter or authority.”¹⁵ According to *Merriam Webster Dictionary*, “extrajudicial” means “outside or beyond the jurisdiction of a court or outside the usual course of justice.”¹⁶ The *Collins English Dictionary* offers comparable definitions, specifying two limits for extrajudicial: (1) outside the ordinary course of legal proceedings, and (2) beyond the jurisdiction or authority of the court.¹⁷

From these conceptual definitions, we can identify four fundamental components of the term extrajudicial: actions that occur outside the authority of the court, or outside the judiciary’s prescribed role. These four classifications function as an analytical framework to categorize actions and activities as non-judicial activities by the judiciary.

In this article, the term “non-judicial activity” is used. This choice reflects the argument that “non-judicial,” or “non-yudisial” in Indonesian, has been utilized in legislation, specifically in Presidential Decree Number 17 of 2022, which relates to the establishment of a Non-Judicial Settlement Team for Serious Human Rights Violations from the Past. In this decree, “non-judicial” refers to alternative approaches aside from the judicial process. Thus, in this article, “non-judicial activity” is defined as activities conducted by the judiciary outside the traditional judicial framework.¹⁸ The preference for the term “non-judicial activity” over “non-judicial function” and “extrajudicial activity” does not aim to distinguish the meanings and limitations of these terms, as they all convey the same significance and definition. Non-judicial activities conducted by the judiciary will invariably encapsulate these four fundamental elements, making the terminology interchangeable without any substantial difference. Any actions taken by the judiciary outside the judicial process can be classified as non-judicial activities.¹⁹

Every judicial institution has established standards of norms, ethics, and behavioral expectations that guide judges in acting with professionalism.²⁰ The presence of judicial ethics, which set forth these standards of norms for judicial officials, serves as the foremost safeguard for achieving the fundamental objectives of judicial conduct—specifically, ensuring the independence, impartiality, and integrity of judges, both individually and collectively as part of the judicial institution. To ensure that judges do not exceed their jurisdiction, maintain their independence and impartiality, and uphold the balance of state power through the principle of separation of powers, it is essential to regulate judges’ activities and behaviors according to the standards of professional ethics and judicial behavior (judicial ethics).

¹⁴ Bryan A. Garner, *Black’s Dictionary*, 9th ed. (Thomson Reuters business, 2009), 665.

¹⁵ John Bouvier, *A law dictionary, adapted to the Constitution and laws of the United States of America, and of the several states of the American union: with references to the civil and other systems of foreign law*, 2nd ed (Clark, N.J.: Lawbook Exchange, 2004), 637.

¹⁶ Michael Agnes, ed., *Webster’s New World College Dictionary*, 4. ed. (Cleveland, Ohio: Wiley, 2010), 504.

¹⁷ John M. Sinclair, G. A Wilkes, dan W. A Krebs, *Collins English Dictionary 21st Century Edition* (HarperCollins Publishers, 2000), 546.

¹⁸ See the Recitals in the Presidential Decree of the Republic of Indonesia Number 17 of 2022 regarding the Establishment of the Non-Judicial Settlement Team for Past Gross Violations of Human Rights.

¹⁹ Dubeck, “Understanding ‘Judicial Lockjaw’: The Debate over Extrajudicial Activity,” 571.

²⁰ Refer to the foreword delivered by Lady Hale, President of the Supreme Court of the United Kingdom, Supreme Court of United Kingdom, “Guide to Judicial Conduct (2019),” Supreme Court of United Kingdom, accessed on 30th June 2023, <https://www.supremecourt.uk/docs/guide-to-judicial-conduct.pdf>.

Ethical dilemmas can pose significant challenges for the judiciary when judges fail to adhere to the core values expected of them. A judge, entrusted by the public and serving as a custodian of the law for those seeking justice (*justiciabelen*), can earn public confidence only when the fundamental general principles of judicial power—such as a free and impartial judiciary, equality before the law, and a judiciary rooted in professionalism and integrity—are upheld. The effective implementation of these principles necessitates actions and decisions that align with the normative and behavioral standards that uphold the ethics of the judicial profession.

In the case of *Delcourt v. Belgium*, the European Court of Human Rights stated, “justice must not only be done, it must also be seen to be done.”²¹ This statement underscores that justice must not only be upheld in practice but be evident to the public. By adhering to the professional ethics that emphasize core values, the legal enforcement process can better showcase efforts to achieve justice in a tangible way.

The role of a judge is distinct because, in their capacity as a judge, they must navigate two “hats”:²² that of a judge and that of an individual member of society. A judge is always in the public eye, which necessitates a willingness to accept limitations on their personal behaviors and to conduct themselves in a manner that reflects the dignity of the judicial institution.²³ Upholding the dignity of the judiciary involves imposing strict regulation on activities that are not related to judicial functions (non-judicial activity). In situations where a judge's non-judicial activities could potentially harm the dignity and reputation of the judiciary, it is essential to enforce stringent restrictions to reinforce the integrity of the judiciary institution.

One of the key sources that serves as a global reference for judicial ethics is the Bangalore Principles of Judicial Conduct (hereinafter referred to as the Bangalore Principles). These principles were established at a meeting of judicial institutions²⁴ to rebuild public trust in the judiciary, which has been undermined or lost in many judicial systems around the world.²⁵ The Bangalore Principles enable the assessment of judicial conduct against universal standards, enhancing the accountability and professionalism of judicial power. Since their introduction in 2002, judges have worked diligently to establish universal standards of judicial conduct that are widely accepted, carefully delineating the non-judicial activities in which judges may participate and those from which they should abstain.²⁶

By examining the reports from the chief judges' meetings that lead to the creation of the Bangalore Principles, the drafters aimed to establish clear, specific, and strict restrictions regarding non-judicial activities in which judges are permitted or prohibited from participating. The Bangalore Principles stipulate that judges must maintain financial transparency, which includes the obligation

²¹ *Delcourt v. Belgium* 1 Eur. H.R. Rep. 355 (1970), 13.

²² Nuno Garoupa dan Tom Ginsburg, *Judicial Reputation: A Comparative Theory* (The University of Chicago press, 2015), 75.

²³ The Fourth Principle of the Constitutional Court of the Republic of Indonesia Regulation (PMK) Number 09/PMK/2006 concerning the Enforcement of the Declaration of the Code of Ethics and Behavior of Constitutional Judges (Sapta Karsa Utama).

²⁴ Mindaugas Simonis, “The Role of Judicial Ethics in Court Administration: From Setting the Objectives to Practical Implementation,” *Baltic Journal of Law & Politics* 10, no. 1 (2017): 95.

²⁵ United Nations Office on Drugs and Crime, “The Summary Record of The Round Table Meeting of Chief Justices to Review the Bangalore Draft Code of Judicial Conduct” (The Hague, 2002), 3.

²⁶ United Nations Office on Drugs and Crime, 8–11.

to disclose their financial information and fulfill tax obligations as mandated by law. Furthermore, the judges involved in formulating these principles recognized that non-judicial activities could provide opportunities for judges to supplement their income outside their official duties, whether through compensation or reimbursements. As a result, the rules governing these activities are precise and stringent.²⁷

Initially, the Bangalore Principles included regulations on non-judicial activities connected to practical politics, including political party funding, attendance at political meetings, contributions to political parties, campaigning, and engaging in contentious debates about political candidates. Although these regulations were ultimately removed from the final draft of the Bangalore Principles, and the references to political party-related non-judicial activities were reworded, these restrictions continue to reflect the original intent of the drafters to impose strict limitations on non-judicial activities judges can participate in or must avoid. With the removal of detailed and rigid regulations and their replacement with more precisely articulated general standards, as shown in Principles 4.11.1 - 4.11.4,²⁸ the evaluation of non-judicial activities will hinge on whether the public accepts or rejects the judiciary's involvement in such activities.²⁹

Judges may engage in some of these non-judicial activities as long as they do not hinder their primary judicial responsibilities or compromise the impartiality of the judiciary. Principle 4.11.4 of the Bangalore Principles allows from the inclusion of other non-judicial activities not explicitly covered by the Principles. While the development of such norms may permit broad and flexible interpretations, the clarification of these open norms has been reinforced by the Commentary on The Bangalore Principles of Judicial Conduct, which outlines various non-judicial activities that judges should pursue or avoid.³⁰

In contrast to the Bangalore Principles, Garoupa and Ginsburg identified eleven categories of non-judicial activities that judges may engage in. These activities include: (i) seemingly judicial

²⁷ United Nations Office on Drugs and Crime, 10.

²⁸ "Subject to the proper performance of judicial duties, a judge may:

4.11.1 write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters"

4.11.2 appear at a public hearing before an official body concerned with matters relating to the law, the legal system, the administration of justice or related matters;

4.11.3 serve as a member of an official body, or other government commission, committee or advisory body, if such membership is not inconsistent with the perceived impartiality and political neutrality of a judge;

4.11.4 engage in other activities if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties."

²⁹ The discussion on the Bangalore Principles, which govern behavioral standards and serve as the Code of Ethics for Judges, is focused on because the Constitutional Court and the Judicial Commission have agreed that the Bangalore Principles should serve as a guide in formulating the Code of Ethics for Constitutional Judges, which is later stipulated in Constitutional Court Regulation Number 009/PMK/2006 concerning the Declaration of the Code of Ethics and Behavior of Constitutional Judges (Sapta Karsa Utama). See the website on 'MK-KY Sepakat Gunakan Bangalore Principles Untuk Pedoman Kode Etik', *Hukumonline.com*, 2005, <https://www.hukumonline.com/berita/a/mkky-sepakat-gunakan-ibangalore-principlesi-untuk-pedoman-kode-etik-hol13395/>, accessed on 30th June 2023.

³⁰ United Nations Office on Drugs and Crime, 'Commentary on The Bangalore Principles of Judicial Conduct', 2007, accessed on 30th June 2023.

functions;³¹ (ii) quasi-judicial functions;³² (iii) non-judicial functions related to judicial functions;³³ (iv) non-judicial functions that are adjudicative in nature;³⁴ (v) non-judicial functions that promote the law;³⁵ (vi) social and community activities;³⁶ (vii) seemingly legislative functions;³⁷ (viii) seemingly executive functions;³⁸ (ix) full legislative functions;³⁹ (x) full executive functions;⁴⁰ and (xi) business activities.⁴¹

Garoupa and Ginsburg clarify that these various non-judicial activities carry distinct meanings. Some activities at the top of the list garner benefits from the involvement of the judiciary, leveraging the skills of judges and contributing to the independence of the judiciary. On the other hand, the items at the bottom of the list face opposition and criticism regarding judicial involvement in non-judicial activities.⁴² A prime example is the prohibition against active judges serving as members of the legislature.⁴³ This prohibition is outlined in both the law and the code of ethics for judges, which clearly states that judges (whether full-time, part-time, or receiving honoraria) are expected to uphold the status and dignity of their judicial role and to abstain from political or other activities that could compromise their judicial position or impartiality. Keeping law separate from political matters that may lead to controversies helps ensure that both the judiciary as an institution and individual judges retain their independence and impartiality when making decisions in cases.

As Garoupa and Ginsburg indicate, non-judicial activities by the judiciary present complex and intricate challenges.⁴⁴ This complexity arises in evaluating whether a non-judicial activity performed by a judge is considered “appropriate” or “inappropriate.” To assess if a judge's non-

³¹ The apparent judicial function means that in performing non-judicial activities, judges involve judicial actions, such as listening to the parties' arguments impartially (*audi et alteram partem*), rendering judgments, and so on. An example of this activity is acting as a mediator in court or an arbiter in alternative dispute resolution in civil cases.

³² The quasi-judicial function is an auxiliary function of judiciary which supports judicial power and involves activities such as adjudicating electoral cases, supervising political parties, and deciding on presidential authorities.

³³ The non-judicial function related to the judicial function encompasses non-judicial activities carried out by the judiciary that are related to the implementation of the judicial function. Some of these functions include performing managerial functions within the judicial institutions, participating in commissions related to the recruitment and selection of judges, as well as judicial ethics committees, and being members of judicial commissions.

³⁴ The non-judicial function that naturally involves adjudication is non-judicial activities carried out by the courts but with an adjudicatory character. These functions include examining and adjudicating impeachment cases against political actors, serving as the chairperson of investigation committees, public prosecutor, chair of public hearings, and handling extraordinary cases related to corruption and terrorism.

³⁵ The non-judicial function carried out to advance and develop legal scholarship includes giving lectures on legal subjects, writing legal articles to be presented in seminars/conferences/workshops or integrated into legal journals, and participating in judicial associations/community.

³⁶ Non-judicial activities towards the community and society include the judiciary's involvement in non-profit organizations and activities, as well as participation in non-judicial associations/community

³⁷ Functions that resemble legislative functions include judges' involvement in commissions or bodies responsible for lawmaking or overseeing constitutional amendment practices.

³⁸ Functions that resemble executive functions include holding positions as chairpersons of administrative bodies/institutions, serving as ambassadors or executive officials.

³⁹ Full legislative functions namely becoming legislators.

⁴⁰ Full executive functions include holding positions as deputy prime minister, minister, ambassador, administrative officials, or president.

⁴¹ Non-judicial activities that involve business orientation to maximize profit include serving as legal consultants and members of corporate boards, commissioners, or directors.

⁴² Garoupa dan Ginsburg, “Judicial Roles in Nonjudicial Functions,” 760.

⁴³ Referencing the Book Was Written by Shimon Shetreet dan Sophie Turenne, *Judges on Trial: The Independence and Accountability of the English Judiciary* (Cambridge University Press, 2013), 244.

⁴⁴ Garoupa dan Ginsburg, “Judicial Roles in Nonjudicial Functions,” 756.

judicial conduct potentially jeopardizes their dignity, integrity, independence, or impartiality, one must refer to the judicial code of ethics and the legal framework that governs their behavior. In these situations, practical “grey areas” may emerge that the code of ethics for judges or other legal regulations governing judicial conduct do not address or regulate. The lack of specific criteria, standards, or norms to prevent non-judicial activities that may undermine the principles and values of justice positions society as the ultimate arbiter of these activities.⁴⁵

Concerns about the acceptance, appropriateness, or inappropriateness of a judge's non-judicial actions manifest in public discussions and debates. An example of this, noted by Leslie B. Dubeck, occurred when former US Supreme Court Justice Antonin Scalia made public statements regarding legal issues pending before the Court in the case of *Hamdi v. Rumsfeld*.⁴⁶ The outcome of this case, which had not yet been officially resolved by the courts, became predictable due to Justice Scalia's comments. In contrast, former Supreme Court Justice Stephen G. Breyer, who often appeared in various media to discuss his latest book, faced no criticism.⁴⁷ This disparity suggests that non-judicial activities cannot be uniformly assessed or understood. Public opinion polarization regarding non-judicial activities is unavoidable. When a judicial non-judicial action encounters significant opposition, condemnation, harsh criticism, or outright rejection from society, it impacts both the institutional reputation of the judiciary and the personal reputation of the involved judge. A decline in the judiciary's reputation can lead to a loss of public trust in the judicial system. The weaker the judiciary appears, the more significantly the public's access to justice will be compromised.

Types of Non-Judicial Activities of the Indonesian Constitutional Court and Comparative Overview

The authority of the Constitutional Court within the judicial framework is clearly articulated in Article 24C, paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The Constitution does not outline any additional powers or activities that the Constitutional Court may undertake. Likewise, the Constitutional Court Act defines the authorities or competencies of the Constitutional Court, and establishes that its procedural law constitutes a judicial function.

This section of the article outlines several non-judicial activities engaged in by the Constitutional Court from its inception in 2003 until 2022. The primary data source is the Annual Report published on the Constitutional Court's website (www.mkri.go.id). The presentation of these data serves to analyze several key aspects: (1) the different types of non-judicial activities performed by the Constitutional Court; (2) the total number of non-judicial activities conducted; and (3) the most prevalent non-judicial activities executed by the Court. The following table illustrates the various non-judicial activities of Indonesian Constitutional Court.

⁴⁵ Dubeck, “Understanding ‘Judicial Lockjaw’: The Debate over Extrajudicial Activity,” 570.

⁴⁶ Furthermore, for a More Extensive Examination of the Topic, See Several Works by John R. Vile, *Essential Supreme Court Decisions: Summaries of Leading Cases in U.S. Constitutional Law*, 15. ed (Lanham: Rowman & Littlefield, 2010), 93–95; NOAH R. SULLIVAN FELDMAN KATHLEEN M., *CONSTITUTIONAL LAW* (Place of publication not identified: WEST ACADEMIC Press, 2019), 360–69; Charles M. Lamb dan Jacob R. Neiheisel, *Constitutional Landmarks: Supreme Court Decisions on Separation of Powers, Federalism, and Economic Rights*, 2021.

⁴⁷ Dubeck, “Understanding ‘Judicial Lockjaw’: The Debate over Extrajudicial Activity,” 571.

Table 1: *Non-Judicial Activities of the Constitutional Court of Indonesia (2003 to 2022)*

No	Type of Non-Judicial Activities Conducted by the Constitutional Court	Intensity of Non-Judicial Activities	Percentage
1	<p>One essential aspect of jurisprudence is the promotion of the law, which can be accomplished through several means:</p> <p>Visiting universities to give lectures or public speeches and participating as a speaker in discussions or workshops;</p> <p>Organizing and joining seminars, conferences, symposiums, or book discussions at both national and international levels;</p> <p>Engaging in professional exchanges with other judicial institutions;</p> <p>Participating in international conferences to engage in constitutional dialogue;</p> <p>Promoting the constitution through socialization and community activities led by constitutional judges;</p> <p>Contributing to legal literature through writing books and articles;</p> <p>Organizing constitutional weeks that include competitions, award ceremonies, and educational initiatives related to the constitution;</p> <p>Establishing a Center for Constitutional and Pancasila Education;</p> <p>Conducting technical guidance programs and legal education for professionals.</p>	972	73.3%
2	Court; (2) the total number of non-judicial	351	26.47%
3	<p>Joining judicial associations or organizations is an important aspect of professional growth. Notable associations include:</p> <p>Asian Association of Constitutional Courts (AACC);</p> <p>Asian representation in the World Conference on Constitutional Justice (WCCJ);</p> <p>Participation in the Working Committee of the Judicial Conference of OIC Member States in 2020;</p>	3	0.22%

Source: *Annual Report of the Constitutional Court of the Republic of Indonesia from 2003 to 2022.*

Based on the data presented in the table 1, it is evident that the majority of non-judicial activities conducted by judges of the Constitutional Court focus on academic pursuits related to legal issues, particularly in promoting law and the rule of law. These non-judicial activities are closely tied to the judges' capacity, capabilities, and expertise in the legal field. Constitutional judges serves as statesmen with profound knowledge of the law, especially constitutional law, in both theoretical and practical contexts.⁴⁸ Their experience as leaders in upholding constitutional justice and enlightening the nation about the legal matters enables them to protect the constitutional

⁴⁸ Sugeng Riyadi et al., "The Urgency of Establishing Constitutional Court Procedural Law," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 27 Desember 2023, 209–23, <https://doi.org/10.24090/volkgeist.v6i2.9607>.

rights of citizens within the Indonesia's democratic framework.⁴⁹ This role allows judges not only to uphold the constitution and its underlying values through decisions based on "justice"⁵⁰ but also to actively promote these constitutional values to ensure they are fully understood by the public.⁵¹

Through various non-judicial activities—such as writing books and articles, delivering public lectures on legal issues, and addressing technical aspects of judicial procedure and administration, including providing technical guidance on the procedures for judicial review of laws, handling disputes over regional election results,⁵² handling disputes over the authority of state institutions,⁵³ and offering advice on legal drafting⁵⁴—judges of the Constitutional Court fulfill the intentions of the drafters of the Bangalore Principles. These principles emphasize the unique position of judges and their responsibility to contribute to the advancement of law and legal education. Judge's participation in such non-judicial activities is viewed as serving the public interest,⁵⁵ particularly when it comes to enhancing public awareness of constitutional rights.

Constitutional awareness is believed to correlate closely with society's knowledge and understanding of the 1945 Constitution,⁵⁶ as it represents a social contract among the Indonesian people to establish a constitutional democracy that safeguards their fundamental rights. With a comprehensive understanding of the 1945 Constitution, citizens must ensure that their fundamental rights are respected and protected. In this regard, it is the Constitutional Court's responsibility to educate state organs and stakeholders, as well as all Indonesian citizens, about the constitution and the role of the Constitutional Court in defending it and upholding their constitutional rights.⁵⁷ The effort to promote and internalize the constitution, aimed at fostering a culture of conscious constitutional awareness, is further advanced by the Constitutional Court through its non-judicial activities, particularly through engagement with the media. The media serves as a crucial tool for widespread dissemination, thereby facilitating the process of educating the public about constitutional awareness.⁵⁸ The Court's collaboration with the media ensures that the constitution is not only understood by the elite but is also accessible to the entire society.⁵⁹

⁴⁹ Maimun Maimun and Dani Amran Hakim, 'Siyāsah Syar'iyah and Its Application to Constitutional Issues in Indonesia', *As-Siyasi: Journal of Constitutional Law* 3, no. 1 (20 June 2023): 111–130, <https://doi.org/10.24042/as-siyasi.v3i1.15710>.

⁵⁰ Referring to the perspective of Aharon Barak, the Chief Justice of the Supreme Court of Israel, he emphasizes the court's responsibility to safeguard the constitution and protect the inherent human rights enshrined within it. For further details, please refer to the Supreme Court of Israel, *United Mizrahi Bank v. Migdal Cooperative Village* (1995).

⁵¹ Or Bassok, "The Schmitelsen Court: The Question of Legitimacy," *German Law Journal* 21, no. 2 (2020): 152.

⁵² Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2020: Meneguhkan Supremasi Konstitusi di Masa Pandemi," 2020, 40–42. Accessed on 1th July 2023.

⁵³ Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2022," 2022, 52. Accessed on 2nd July 2023.

⁵⁴ Mahkamah Konstitusi Republik Indonesia, "Laporan Mahkamah Konstitusi Republik Indonesia Tahun 2021: Transformasi Digital untuk Penegakan Konstitusi," 2021, 84. Accessed on 2nd July 2023.

⁵⁵ United Nations Office on Drugs and Crime, "Commentary on The Bangalore Principles of Judicial Conduct," 85–86.

⁵⁶ Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2008: Menegakkan Keadilan Substantif," 2008, 314. Accessed on 2nd July 2023.

⁵⁷ Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2009: Mengawal Demokrasi Menegakkan Keadilan Substantif," 2009, 61. Accessed on 2nd July 2023.

⁵⁸ Mahkamah Konstitusi Republik Indonesia, 55.

⁵⁹ Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2015: Dinamika Pembangunan Budaya Hukum dan Demokrasi Lokal," 2015, 91. Accessed on 2nd July 2023.

The non-judicial activities undertaken by the Constitutional Court are also directed towards the advancement of law, particularly constitutional law. The court frequently organizes various competitions for students, including constitutional moot court competitions and constitutional debate contests. These debate competitions are designed for university students, as campuses are pivotal in fostering an understanding of the constitution and significantly contribute to the development of constitutionalism for the future.⁶⁰ Such competitions serve as a means to raise and enhance students' awareness of Pancasila and the Constitution. Consequently, these non-judicial activities are anticipated to positively impact the dissemination of knowledge and increase citizens' awareness of their constitutional rights, especially among students.⁶¹

The judges of the Constitutional Court engage in non-judicial activities that aim to promote awareness of constitutional rights while simultaneously enhancing public literacy regarding legal matters and providing a space for the public to express criticism of the Constitutional Court. Former Chief Justice of the Supreme Court of Israel, Aharon Barak, asserted that constructive criticism of the judiciary ultimately benefits the judiciary itself. Public scrutiny of judicial decisions, as well as the activities and conduct of judges, reinforces the judiciary's role as the "guardian" of the constitution.⁶² This practice balances the relationship between judicial independence and judicial accountability. The judiciary upholds its independence—both institutionally and personally for each judge—while also bearing the responsibility to make constitutionally accountable decisions that can be justified to the public.

Indirect constitutional discourse between the public and the judiciary allows the impartiality of judges to be maintained. This differs from direct constitutional discussions led by constitutional judges in political institutions (both executive and judicial), which may compromise the principle of judicial impartiality. In this context, the Latin phrase *quis custodiet ipsos custodes*, which means "who will guard the guardians themselves," becomes less relevant in practice.

In addition to engaging in non-judicial activities related to teaching, writing, and disseminating constitutional law to the public, judges of the Constitutional Court are also actively involved in constitutional dialogue activities. This dialogue is facilitated not only through interactions with other judicial authorities but also by participating in international legal conferences, such as the Asian Constitutional Court Conference, the Annual International Judicial Conference, and the World Conference on Constitutional Justice. The exchange of knowledge among various judicial entities with the Constitutional Court exemplifies trans-judicial communication, which enhances the judicial power.⁶³ For instance, senior members of Nepal's Constituent Assembly conducted their

⁶⁰ Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2010: Membangun Demokrasi Substantif Meneguhkan Integritas Institusi," 2010, 101. Accessed on 2nd July 2023.

⁶¹ In several constitutional law cases before the Constitutional Court, the petitioners are students, particularly law students. This conclusion does not directly indicate the impact of non-judicial activities of the Constitutional Court. However, it provides an overview that all segments of society have constitutional rights that can be defended in the Constitutional Court. The number of Constitutional Court decisions filed by student petitioners until 2023 is twenty-two decisions.

⁶² Aharon Barak, *The Judge in a Democracy*, 1. paperback print (Princeton, NJ: Princeton Univ. Press, 2008), 216.

⁶³ The World Conference on Constitutional Justice (WCCJ) is specifically held to facilitate judicial dialogue among constitutional judges on a global scale. The existence of international conferences among judges in the WCCJ arises from the inability of constitutional judges to discuss constitutional principles constructively in their own countries due to the principle of judicial restraint. Through international conferences among judges, there is a dialogic interaction with the aim of achieving the fundamental goals inherent in national constitutions. Although each country's constitution has its own objectives, and even substantially differs, judicial discussions on the principles

non-judicial activities by visiting the Constitutional Court to learn about the Indonesian Constitution while working on the amendment of Nepal's Constitution as it transitioned from a kingdom to a republic. Engaging in comparative studies with nations undergoing similar constitutional formation or amendments is a common practice, including during the Indonesia's constitutional amendments.⁶⁴

Another facet of constitutional dialogue practiced by the Constitutional Court involves welcoming visits from the Independent Commission of Oversight and Implementation of the Constitution (ICOIC), which serves a similar function to the Constitutional Court in Afghanistan. This Commission is tasked with addressing human rights issues and overseeing the Constitution of Afghanistan. By visiting the Constitutional Court, the Commission gained insights into the institutional structure of Indonesia's Constitutional Court, which shares the responsibilities of constitutional oversight. Therefore, participating in trans-judicial communication with similar countries can offer inspiration and valuable insights, especially for their home nations.

An analytical review of the non-judicial activities carried out by the Constitutional Court underscores that its goal in pursuing these activities aligns with efforts to develop, promote, and enhance awareness of citizens' constitutional rights while also contributing to legal scholarship. According to the Bangalore Principles, such non-judicial activities should be encouraged because the crucial role judges play in advancing legal scholarship. Judges contribute to legal education through lectures, public speeches, and engaging in constitutional dialogues with judicial authorities from other countries. These activities positively influence the development of a judiciary that acts as a "friend of the public" and creates a platform for trans-judicial communication that benefits each individual judicial institution, in accordance with the provisions outlined in the Bangalore Principles.

The various non-judicial activities of the Indonesian Constitutional Court are not explicitly detailed in the Constitution. However, the lack of constitutional provisions regarding non-judicial activities does not imply that they are unnecessary. As a judicial body tasked with protecting,⁶⁵ overseeing,⁶⁶ and upholding constitutional norms, the Constitutional Court has a constitutional mandate to ensure that citizens' constitutional rights are comprehensible to all Indonesians. Functioning as the interpreter of the constitution, the Court has the authority to define accurate meanings, identify implied values and principles within constitutional norms, and synthesize them into a cohesive whole, in line with the doctrine of constitutional unity among the fundamental

contained in the constitution unite constitutional judges from various parts of the world in their commitment to promoting constitutionalism in their respective countries. See furthermore on "History of The World Conference on Constitutional Justice", Mahkamah Konstitusi Republik Indonesia, "WCCJ - 5th Congress, Bali, 2022," accessed on 12th July 2023, <https://wccj5.mkri.id/histor>. Accessed on 12th July 2023.

⁶⁴ I Dewa Gede Palguna stated that during the formulation of the Constitutional Court of the Republic of Indonesia in the constitutional amendment process, the Ad Hoc Committee of the People's Consultative Assembly (MPR) conducted comparative studies on the German Constitutional Court and the Constitutional Court of South Korea. See furthermore on I Dewa Gede Palguna, *Pengaduan Konstitusional (Constitutional Complaint) Upaya Hukum terhadap Pelanggaran Hak-Hak Konstitusional Warga Negara* (Jakarta: Sinar Grafika, 2013), 20–21.

⁶⁵ Numerous legal judgments have affirmed the central position of the judiciary in the constitutional system as the guardian of the constitution. See furthermore Richard Ekins, *Judicial Power and the Balance of Our Constitution: Two Lectures by John Finnis* (London: Policy Exchange, 2018), 129–131.

⁶⁶ The Supreme Court of Sierra Leone, in the case of *Akar v. The Attorney General of Sierra Leone* [1969] UKPC 13 (30 June 1969), affirmed that the courts are watchdogs of the constitution. Its position as the watchdog of the constitution places the judiciary as the supervisor of the implementation, respect, and adherence to all constitutional provisions. In cases where legislation is incompatible with the constitution, the courts can invalidate it. See furthermore on Supreme Court of Sierra Leone, *John Joseph Akar v. The Attorney General of Sierra Leone* (1968).

norms.

In this context, a relevant quote by Dooley, as cited by Bittker, states: “This is funny about the constitution. It reads plain, but no one can understand it without an interpreter.”⁶⁷ The juridical-constitutional interpretation of constitutional provisions, as reflected in the Court’s decisions, serves as material for disseminating, educating, and internalizing the values and principles of the people’s Constitution. Non-judicial activities ensure that the Constitutional Court does not merely passively issue constitutional decisions for public access; rather, it actively disseminates this substance through various means, including giving lectures to students, speaking at seminars, conferences, symposiums, and workshops on state administration, as well as publishing books to enhance constitutional legal literacy for the broader public. These non-judicial activities position the Constitutional Court as a key pillar in establishing, developing, and nurturing a culture of constitutional awareness.

The philosophical foundation for the significance of constitutional judges engaging in non-judicial activities aimed at advancing jurisprudence and fostering a culture of constitutional awareness can be derived from the fourth paragraph of the Preamble of the 1945 Constitution, which outlines the objectives of the Indonesian nation. The Preamble is regarded as a fundamental state norm (*staatsfundamentálnorm*), Representing the nation’s declaration of its struggle and independence. It affirms the values of Pancasila and clearly articulates the goals of nation-building, which prioritize protecting all Indonesian citizens and lineages, promoting public welfare, enlightening national life, and participating in maintenance of a world order based on independence, lasting peace, and social justice. The status of the 1945 Constitution as subordinate to the Preamble logically suggests that constitutional norms are sourced, guided, and grounded in the Preamble. This line of reasoning provides a philosophical justification for the Constitutional Court to engage in non-judicial activities that contribute to enlightening the nation.

The practice of non-judicial activities by the Indonesian Constitutional Court is similarly observed among various constitutional courts and judges in other countries.⁶⁸ From an institutional standpoint, constitutional courts across different nations belong to associations that facilitate various forms of forums for constitutional dialogue, both regionally and internationally.⁶⁹ From the perspective of individual judges, constitutional judges take part in many activities within academic settings such as conferences or teaching, and they also contribute to publications through writing.⁷⁰

This research will present only limited comparative insights regarding the Constitutional Court of Germany. The comparison with Germany is justified not only by the similarities in civil law systems but also because Germany has served as a reference point in the establishment of the

⁶⁷ Boris I. Bittker, “Interpreting the Constitution: Is the Intent of The Framers Controlling? If Not, What Is?” *Harvard Journal of Law and Public Policy* 19, no. 1 (1996): 9.

⁶⁸ Andy Omara dan Faiz Rahman, “Why Constitutional Courts Back Death Penalty? Insights from Indonesia and South Korea,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 27 November 2024, 321–40, <https://doi.org/10.24090/volksgeist.v7i2.10773>.

⁶⁹ Examples of associations and forums among judiciaries in various countries include the Association of Asian Constitutional Courts and Equivalent Institutions (AACC) in Asia, the Conference of Constitutional Jurisdictions of Africa (CCJA) in Africa, and the World Conference on Constitutional Justice (WCCJ) globally. Additionally, the International Expert Meeting conducted by the Constitutional Court in 2019.

⁷⁰ Some constitutional judges, such as I Dewa Gede Palguna and Saldi Isra, have actively authored legal books during their tenure. These books include, but not limited to, Palguna, *Pengaduan Konstitusional (Constitutional Complaint) Upaya Hukum terhadap Pelanggaran Hak-Hak Konstitusional Warga Negara*; Saldi Isra, *Lembaga Negara: Konsep, Sejarah, Wewenang, dan Dinamika Konstitusional* (Depok: PT. RajaGrafindo Persada, 2020).

Indonesian Constitutional Court.⁷¹ Moreover, Germany has actively supported the development of the Indonesian Constitutional Court through various programs.⁷² This comparison is valuable for analyzing the non-judicial activities undertaken by the judiciary, which can enhance the reputation of the judicial power.

Given that issues surrounding the reputation of judicial power are non-legal in nature, normative approaches are not applicable for providing meaningful solutions to these issues. The criteria relevant to the enhancement or decline of the reputation of the judicial power in this research refer to several theoretical benchmarks. Strong, accurate, and empirical justification regarding the relevance of these criteria as indicators related to the reputation of judicial power requires further investigation that is beyond the scope of this study. This research seeks to link the criteria influencing the enhancement or deterioration of the reputation of the judicial power to tangible practices carried out by the judiciary. Establishing a relationship between these two elements will lead to an “hypothetical conclusion/answer” that necessitates additional research to further this study. Below are the quantitative data results illustrating the non-judicial activities conducted by the Constitutional Court of Germany in the past two years.

Table 2: *Non-Judicial Activities of the Constitutional Court of Germany (2020 to 2022)*

No	Type of Non-Judicial Activities Conducted by the Constitutional Court	Intensity of Non-Judicial Activities	Percentage
1	Initiating or welcoming visits from state institutions	3	11.54%
	• Visited by the Bundestag;		
	• Visited by the Office of the Public Prosecutor;		
	• Meeting with the German Federal Government.		
2	Expanding partnerships and cooperation	2	7.69%
	• Collaboration with the Court of Justice of the European Union;		
	• Collaboration with the European Court of Human Rights.		
3	Developing jurisprudence (promoting the law)	21	80.77%
	• Organizing constitutional dialogue (<i>Karlsruher Verfassungsgespräch</i>);		
	• Attending or speaking at international legal conferences;		
	• Conducting or hosting visits from other judicial institutions for constitutional dialogue.		

Source: *Annual Report of the German Constitutional Court for the Years 2020 to 2022.*

Based on the quantitative data analysis of the practices of the Constitutional Courts in Indonesia and Germany, it is evident that both judiciaries actively engage in non-judicial activities. The non-judicial activities undertaken by the Constitutional Courts in both countries are primarily focused on the promotion and development of law. In this regard, significant activities carried out by the judges of the German Constitutional Court foster constitutional dialogue or judicial dialogue.

⁷¹ In the discussions on amending the Basic Law regarding the idea of the Constitutional Court in Indonesia, Germany serves as one of the references.

⁷² “MK-KY Sepakat Gunakan Bangalore Principles untuk Pedoman Kode Etik.” Accessed on 12th July 2023.

The constitutional dialogue facilitated by the German Constitutional Court includes various judicial bodies, both from European Union members and non-EU countries. This collaboration involves institutions such as the Constitutional Court of Austria, the European Court of Human Rights, the French Constitutional Council, the Court of Justice of the European Union, the Constitutional Court of Italy, the Constitutional Court of Croatia, the Constitutional Court of Lithuania, the Constitutional Court of Portugal, and the Constitutional Court of Ireland. Additionally, several non-European Union countries, such as the Constitutional Court of South Korea, the Supreme Court of Kenya, and the Constitutional Court of the Republic of Indonesia, have participated in constitutional dialogue activities with the German Constitutional Court. Contemporary issues discussed in the constitutional dialogue between the German Constitutional Court and other judicial institutions include topics such as human rights during the COVID-19 emergency,⁷³ state liability for human rights violations,⁷⁴ the interplay between EU law and domestic law,⁷⁵ climate change,⁷⁶ euthanasia,⁷⁷ and various other matters.

From a theoretical standpoint, the non-judicial activities of the European Court of Justice, as a supranational court engaging with domestic judiciary entities (in this case, the German Constitutional Court), exemplify trans-judicial communication practices. These practices involve direct dialogue⁷⁸ commonly seen among judicial institutions within EU member states. According to Anne-Marie Slaughter, such practices have several indirect impacts:⁷⁹ (1) they enhance the effectiveness of supranational courts; (2) they ensure the reciprocal acceptance of international obligations, supporting compliance with supranational adjudication; (3) they provide innovative solutions for specific legal issues through cross-fertilization; (4) they strengthen the persuasive aspect, authority, or legitimacy of judicial decisions; and (5) they promote collective judicial deliberation on a variety of common issues.

The interaction between a supranational court and its domestic judiciary fosters an exchange of ideas, concepts, and perspectives that judges can draw upon when deciding cases. The implementation of judicial doctrines, international precedents, and rulings established by supranational courts becomes relevant at the domestic level. Compliance with and enforcement of these decisions by domestic courts are critical components required by supranational courts. As Shai Dothan pointed out, if domestic courts fail to comply with decisions from supranational courts, they risk damaging their own reputation.⁸⁰ A court that cannot ensure adherence to its rulings will struggle to achieve

⁷³ A meeting was held on 28-29th June 2021, 2021, between the German Constitutional Court and the Constitutional Council of France. See furthermore Constitutional Court of Germany, "2021 Annual Report of The German Constitutional Court," 2021, 30. Accessed on 1th July 2023.

⁷⁴ A meeting was held on 17th June 2021 between the German Constitutional Court and The European Courts of Human Rights. See furthermore Constitutional Court of Germany, 30. Accessed on 1th July 2023.

⁷⁵ A meeting was held on 11th May 2021 by German Constitutional Court and Austrian Constitutional Court. See furthermore Constitutional Court of Germany, 30. Accessed on 1th July 2023.

⁷⁶ A meeting on climate change was held on 18-19th October, 2021, in collaboration with the Constitutional Court of Portugal. See furthermore Constitutional Court of Germany, 31. Accessed on 1th July 2023.

⁷⁷ A meeting discussing euthanasia or assisted suicide was held on 14-17th November, 2022, with the Constitutional Court of South Korea. See furthermore Constitutional Court of Germany, "2022 Annual Report of The German Constitutional Court," 2022, 25. Accessed on 1th July 2023.

⁷⁸ Anne-Marie Slaughter, "A Typology of Transjudicial Communication," *University of Richmond Law Review* 29, no. 1 (1994): 112.

⁷⁹ Anne-Marie Slaughter, 'A Typology of Transjudicial Communication', *University of Richmond Law Review* 29, no. 1 (1994): 114–122.

⁸⁰ Dothan, *Reputation and Judicial Tactics: A Theory of National and International Courts*, 2.

its policy objectives.⁸¹ In this context, non-judicial activities between the German Constitutional Court and supranational courts become vital.

Moreover, constitutional dialogue among judicial institutions serves as a mechanism for exchanging views, ideas, and insights among judges, fostering an understanding that different legal systems encounter similar challenges and issues. The direct interaction not only enriches judges' knowledge but also promotes solidarity among judges and their respective judicial bodies. Each judicial institution, along with its judges, offers guidance on how to approach, resolve, and find solutions to complex global constitutional issues.⁸² Direct judicial dialogue, as exemplified by the German Constitutional Court,⁸³ fosters empathy in addressing shared challenges. Such exchanges enable each judiciary to benefit from diverse perspectives in tackling obstacles.

Constitutional dialogue benefits judges by expanding the range of legitimate options available for resolving constitutional cases and by learning from a variety of practices across global constitutional systems. The constitutional dialogue facilitated by the German Constitutional Court also has the positive effect of enhancing judicial reputation. A key indicator of a judicial power's high reputation is the frequency with which judges in other jurisdictions cite its decisions to address similar legal issues.⁸⁴ The more credible, skilled, and respected a judicial power is, the more its legal perspectives, as reflected in its decisions, are likely to be cited, thereby inspiring and guiding other judges who approach constitutional cases using comparative constitutional law.⁸⁵

Conversely, less experienced courts and judges lacking sufficient legal expertise often resort to referencing opinions, jurisprudence, and views from more esteemed judicial institutions. For example, Richard Wagner, a judge of the Supreme Court of Canada, referred to a decision from the German Constitutional Court, BVerfGE 45, 187, in the *R v. Bissonette* case,⁸⁶ stating that a humane and dignified imprisonment must include the possibility of parole for life sentence.⁸⁷ Similarly, the European Court of Human Rights (ECHR), in a case like *Big Brother Watch and Others v. The United Kingdom* and *Centrum for Rättvisa v. Sweden*,⁸⁸ referenced the German Constitutional Court's opinion in BVerfGE 2835/17, issued on May 19, 2020.⁸⁹

⁸¹ Dothan, 3.

⁸² Constitutional Court of Germany, "2022 Annual Report of The German Constitutional Court," 37. Accessed on 30th June 2023.

⁸³ Pablo Luis Manili, "Decree with Legislative Content in Comparative Constitutional Law," *As-Siyasi* 4, no. 1 (20th June 2024): 33–57, <https://doi.org/10.24042/as-siyasi.v4i1.22711>.

⁸⁴ Nuno Garoupa dan Tom Ginsburg, "Reputation, Information, and the Organization of the Judiciary," *Journal of Comparative Law* 4, no. 2 (2009): 246.

⁸⁵ The use of comparative constitutional law approaches has sparked debates when applied in analyzing constitutional cases interpreting national constitutions. Opponents of using comparative constitutional law in resolving constitutional cases include legal experts, judges, and academics who adhere to originalism. See furthermore the debates on Jo Eric Khushf Murkens, "Comparative Constitutional Law in The Courts: Reflections on the Originalists' Objections," *Verfassung und Recht in Übersee / Law and Politics in Africa, Asia and Latin America* 41, no. 1 (2008).

⁸⁶ *R v. Bissonette* 2022 SCC 23. These cases affirm that a life sentence without any realistic possibility of parole is a cruel and unusual punishment. The Supreme Court Invalidated Section 745.51 of the Criminal Code, which granted judges the authority to aggregate ineligible periods for parole for 25 years for each first-degree murder. See furthermore Supreme Court of Canada, *R v Bissonette* (2022). Accessed on 30th June 2023.

⁸⁷ Constitutional Court of Germany, "2022 Annual Report of The German Constitutional Court," 35. Accessed on 30th June 2023.

⁸⁸ European Court of Human Rights, *Big Brother Watch and Others v. The United Kingdom* (2021); European Court of Human Rights, *CENTRUM FÖR RÄTTVISA v. SWEDEN* (2021). Accessed on 30th June 2023.

⁸⁹ In the German Constitutional Court's ruling, it was decided that the surveillance of telecommunications against non-German individuals outside the German territory is contrary to the German Basic Law. See furthermore

These practices support the view of Garoupa and Ginsburg that the non-judicial activities undertaken by the German Constitutional Court can enhance the reputation of judicial power. The reputation of the German Constitutional Court is bolstered by the interpretative legal doctrines and legal reasoning found in its decisions, which are deemed appropriate and highly relevant references for similar cases⁹⁰ in other jurisdictions, especially, within the European Union. The enhancement of judicial reputation primarily has institutional impacts on the German Constitutional Court itself, as it does not endorse the idea of “judicial authorship,” nor does it attribute the majority of legal reasoning in its cases to specific individual judges, a practice common in the U.S. Supreme Court⁹¹ and other jurisdictions.

In line with Garoupa and Ginsburg’s criteria for highly reputable judicial powers, the German Constitutional Court incorporates citations from international rulings and decisions from foreign judicial institutions, introducing new perspectives, insights, and understandings of constitutions that reflect universal principles and values. The comparative constitutional law approach employed by judges in constitutional cases is intended not to replace national law but to enhance it. By integrating constitutional knowledge from a comparative standpoint, judicial power fosters a synergistic environment, as argued by Anne-Marie Slaughter, by joining “the global community of courts”.⁹²

Ongoing interactions among judicial institutions to the development of global jurisprudence that serves as a reference for specific legal issues, improving the quality of national court decisions on those issues through the exchange of ideas, solutions, and comparative legal problem-solving.⁹³ Emmanuel Lazega emphasizes that judicial dialogue provides a forum to learn “what judges across borders do.”⁹⁴ Through non-judicial activities that form a network of global judicial bodies, domestic courts can enrich their legal reasoning by referring to the “best” practices from pertinent foreign jurisdictions.

The Impact of Non-Judicial Activities on the Reputation of the Constitutional Court: Theoretical Approaches of Supply and Demand Theory and Reputation Theory on Non-Judicial Activities

This research article examines the non-judicial activities of the Constitutional Court through the lens of supply and demand theory, combined with the realistic theory of judicial behavior and reputation theory in the judiciary. The “realistic theory of judicial behavior” posits that judges are rational actors who make decisions based on logical evaluation, choices, and considerations aligned with economic assessment standards.⁹⁵ A purely legalistic approach to analyzing judicial behavior

Constitutional Court of Germany, “BVerfGE 2835/17,” The Federal Constitutional Court, 2020, https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2020/05/rs20200519_1bvr283517en.html. Accessed on 30th June 2023.

⁹⁰ Garoupa dan Ginsburg, “Reputation, Information, and the Organization of the Judiciary,” 246.

⁹¹ Carefully consider the dialectic of Judicial Authorship in Peter Friedman, ‘What Is a Judicial Author?’, *Mercer Law Review* 62, no. 2 (2011): 523–524.

⁹² Anne-Marie Slaughter, ‘A Global Community of Courts’, *Harvard International Law Journal* 44, no. 1 (2003): 203–204.

⁹³ Slaughter, 195.

⁹⁴ Emmanuel Lazega, “Mapping Judicial Dialogue across National Borders: An Explanatory Network Study of Learning from Lobbying among European Intellectual Property Judges,” *Utrecht Law Review* 8, no. 2 (2012): 115.

⁹⁵ Lee Epstein, William M. Landes, dan Richard A. Posner, *The Behavior of Federal Judges: A Theoretical & Empirical Study of Rational Choice* (Massachusetts: Harvard University Press, 2013).

is inadequate as it does not clarify how judicial power's actions relate to achieving judicial utility.⁹⁶ In contrast, supply and demand theory effectively explains the behavior, policies, and institutional strategies of judicial bodies, including the motivations behind judges engaging in non-judicial activities and their resulting impacts.

According to Garoupa and Ginsburg, the behavior and strategies of judicial power in participating in non-judicial activities can be understood in two contexts: the “supply side” explains the motivations that drive judges to engage in specific activities. The supply side assumes that judges are willing to voluntarily undertake non-judicial activities and enjoy the benefits that arise from these actions.⁹⁷ The second context is the “demand side,” which indicates that relevant political and social actors seek judges' participation in their initiatives,⁹⁸ and relevant judicial audiences perceive that the status of the judiciary affects their lives. These actors include the media, politicians, lawyers, legal scholars, and the general public.⁹⁹

From these two perspectives, it can be concluded that by engaging in non-judicial activities, the Constitutional Court (along with its constitutional) aims to offer significant benefits to relevant judicial audiences while also providing reciprocal advantages to the Court and its judges. The existence of supply and demand theories permits a rational analysis of judicial behavior. Judicial institutions and their judges strive to enhance their reputation (both as institutions and individuals) while audience members who seek judges' involvement in their activities—such as non-judicial functions—gain from the reputation of a knowledgeable, independent, and impartial judiciary, supported by legal expertise and other pertinent qualifications.¹⁰⁰

Richard A. Posner argues that judges are inherently utilitarian, which means they aim to optimize their performance to gain specific benefits.¹⁰¹ These benefits accrue not only during their tenure as judges but also after they retire or conclude their terms.¹⁰² The advantages that the Constitutional Court (along with its judges) may garner in exchange their non-judicial activities include:¹⁰³ (1) popularity; (2) prestige; (3) public interest; (4) avoidance of reversal; (5) reputation; (6) voting; (7) influence; and (8) public recognition as celebrities or public figures.

The factors that define judges' personal preferences, which may drive their activities (including non-judicial roles), are strategically evaluated in light of external judicial audiences who will be influenced by their actions, impacting the internal judicial utility they receive.¹⁰⁴ According to Lee Epstein and Keren Weinshall, judges always consider personal advantages, such as enhancing future job prospects (after leaving office), prestige, reputation, and income from their endeavors.¹⁰⁵ These considerations illustrate the link between the activities judges choose (including non-judicial

⁹⁶ Epstein, Landes, dan Posner, 29.

⁹⁷ Garoupa dan Ginsburg, “Judicial Roles in Nonjudicial Functions,” 759.

⁹⁸ Garoupa dan Ginsburg, “Judicial Roles in Nonjudicial Functions.”

⁹⁹ Garoupa dan Ginsburg, “Judicial Audiences and Reputation: Perspectives from Comparative Law,” 452.

¹⁰⁰ Garoupa dan Ginsburg, “Judicial Roles in Nonjudicial Functions,” 759.

¹⁰¹ Richard A. Posner, “Judicial Behaviour and Performance: An Economic Approach,” *Florida State University Law Review* 32, no. 1259 (2005): 1260.

¹⁰² Richard A. Posner, “What Do Judges and Justices Maximize? (The Same Thing Everybody Else Does),” *Supreme Court Economic Review* 3 (1993): 13.

¹⁰³ Richard A. Posner, *Overcoming Law*, 3. print (Cambridge, Mass.: Harvard University Press, 1996), 117–123; Lee Epstein and Keren Weinshall, *The Strategic Analysis of Judicial Behavior* (Cambridge: Cambridge University Press, 2021), 7.

¹⁰⁴ Epstein and Weinshall, *Supra* Note 96 at 7.

¹⁰⁵ Epstein dan Weinshall, *The Strategic Analysis of Judicial Behavior*, 7.

activities) and their career progression, reputation, and legacy once they are no longer judges. Therefore, this study posits that judges are rational decision-makers who aim to maximize the judicial benefits they obtain.

The examination of non-judicial activities and their effects on the judiciary's reputation relates closely to reputation theory. As previously discussed, one of the motivating internal factors for judges to participate in non-judicial activities is the prospect of enhancing their reputation as a result. Judges aspire to individual prestige and a reputation for caliber, intellect, competence, and expertise, which serve to strengthen their image in the eyes of judicial audiences. Additional factors, such as the pursuit of public attention, exposure, and general popularity stemming from their skills and thoughtful engagement, encourage judges to partake in non-judicial activities. This research supports Garoupa and Ginsburg's assertion that judges require a solid reputation to successfully fulfill their responsibilities.¹⁰⁶ They note that participating in non-judicial activities provides judges the chance to advance their career (potentially leading to promotions to higher courts), although it can also negatively affect career advancement, depending on public perceptions of those activities.¹⁰⁷

Another intriguing aspect discussed by Garoupa and Ginsburg is the participation of judges in non-judicial activities, such as writing articles, books, or giving public lectures and speeches at seminars, conferences, and symposiums. These various activities act as channels for market diversification that judges can utilize to enhance both their individual and institutional reputations. Judges who take an active role in non-judicial activities—whether by writing books, sharing non-judicial viewpoints in publicly accessible legal articles, or speaking at academic events—tend to gain broader public recognition than those who remain focused solely “behind the court.” A judge who frequently shares their ideas through writing is likely to have a greater impact on their reputation and popularity among legal professionals, academics, law professors, and students, thus leaving a legacy that aligns with the saying “words fly, writings remain,” or *verba volant scripta manent*. Non-judicial activities can elevate the overall prestige of the judiciary, providing individual judges with minor rewards in the form of enhanced reputation and prestige for their contributions within the judicial power institution.¹⁰⁸ The following sections will further clarify how the non-judicial activities undertaken by the Constitutional Court contribute to building the reputation of judicial power.

Practical Implications of Non-Judicial Activities by the Constitutional Court in Building the Reputation of Judicial Power

In light of the advantages of non-judicial activities, the Indonesian Constitutional Court engages in these efforts to achieve specific benefits, particularly: popularity, public interest, avoidance of reversal by higher judicial bodies, reputation, influence, and public visibility. Regarding popularity, the Constitutional Court explicitly states that its various non-judicial activities aim to foster and serve widespread recognition.¹⁰⁹ Additionally, the benefits derived from these non-judicial activities

¹⁰⁶ Garoupa dan Ginsburg, “Judicial Roles in Nonjudicial Functions,” 761.

¹⁰⁷ Garoupa dan Ginsburg, 762.

¹⁰⁸ Garoupa dan Ginsburg, 762.

¹⁰⁹ The Chief Justice of the Constitutional Court at that time, Jimly Asshiddiqie, who was one of the speakers at the 13th Annual International Judicial Conference in Kiev, Ukraine, in late May 2005, introduced the existence of the Constitutional Court, which had been safeguarding the Indonesian constitution for almost two years through the

serve as tools to gain influence and assert claims pertaining to public interests. Therefore, this research article analyzes how the Indonesian Constitutional Court utilizes non-judicial activities to promote the idea of expanding its power through constitutional complaints.

Constitutional complaints refer to situations in which individual citizens believe their constitutional rights have been infringed upon by deliberate actions or omissions by public officials.¹¹⁰ The discussion surrounding the possibility of the Constitutional Court exercising authority over constitutional complaints in the Indonesian constitutional framework has consistently been highlighted through the non-judicial activities carried out by both the institution and individual constitutional judges. It is important to note that constitutional complaints are frequently submitted to the Constitutional Court. Since its inception in 2003, the issue of constitutional complaints has appeared in the Court's Annual Reports 11 times,¹¹¹ indicating that over half of the Court's existence has been dedicated to raising public awareness of these complaints. This underscores the significant number of constitutional complaints filed by the Indonesian people.

Given that Article 24C Paragraph (1) of the 1945 Constitution of the Republic of Indonesia explicitly denies the Constitutional Court the authority to address constitutional complaints, it has automatically determined that such cases are deemed inadmissible (*niet onvankelijke verklaard*). According to recorded court data, the total number of registered constitutional complaints by 2010 reached 26 petitions.¹¹² This information suggests at least two possible interpretations: (1) Indonesian citizens may not fully understand the constitutional authority of the Constitutional Court as outlined in Article 24C Paragraph (1) of the 1945 Constitution; or (2) there have been numerous infringements on citizens' constitutional rights due to actions or negligence by public officials.

exercise of its authority in resolving disputes over the results of the 2004 elections. See furthermore Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2005: Mengawal Hak Konstitusional Rakyat," 2005, 105. Accessed on 12th July 2023.

¹¹⁰ M. Lutfi Chakim, "A Comparative Perspective on Constitutional Complaint: Discussing Models, Procedures, and Decisions," *Constitutional Review* 5, no. 1 (2019): 98; Pan Mohammad Faiz, "A Prospect and Challenges for Adopting Constitutional Complaint and Constitutional Question in The Indonesian Constitutional Court," *Constitutional Review* 2, no. 1 (2016): 106; I Dewa Gede Palguna, "Constitutional Complaint and The Protection of Citizens The Constitutional Rights," *Constitutional Review* 3, no. 1 (2017): 2.

¹¹¹ Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2005: Mengawal Hak Konstitusional Rakyat," 129; Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2006," 2006, 58; Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2008: Menegakkan Keadilan Substantif," 138; Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2010: Membangun Demokrasi Substantif Meneguhkan Integritas Institusi," 19; Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2011: Menegakkan Negara Demokrasi Konstitusional," 2011, 53–54; Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2012: Dinamika Penegakan Hak Konstitusional Warga Negara," 2012, 73; Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2013: Menjaga Independensi Menyongsong Pemilu 2014," 2013, 81; Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2015: Dinamika Pembangunan Budaya Hukum dan Demokrasi Lokal," 83–86; Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2016: Harmoni Sosial dan Budaya Demokrasi yang Berkeadilan," 2016, 51; Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2020: Meneguhkan Supremasi Konstitusi di Masa Pandemi," 47–48. All sources had been accessed on 2nd July 2023.

¹¹² Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2010: Membangun Demokrasi Substantif Meneguhkan Integritas Institusi," 19. Accessed on 2nd July 2023.

As an institution entrusted with the responsibility of upholding the constitution, the Constitutional Court faces limitations imposed by its constitutionally defined powers. The lack of jurisdiction over constitutional complaints prevents the Court from taking action, even when aware of violations of citizens' rights stemming from the actions or omissions by public officials.¹¹³ The formal process for amending the constitution, as described in Article 37 of the 1945 Constitution, is quite challenging, making it difficult to realize the proposal to add jurisdiction for constitutional complaints to the Constitutional Court. Despite the legal and constitutional obstacles involved in formally amending the constitution to include constitutional complaint jurisdiction for the Court, the judges continue to pursue practices related to constitutional complaints through the decisions of the Constitutional Court without requiring formal constitutional amendments.¹¹⁴

This situation leads to the conclusion that the jurisdiction over constitutional complaints was meant to be "informally internalized" by the judges of the Constitutional Court without altering the text of the 1945 Constitution.¹¹⁵ The push to expand the jurisdiction for constitutional complaints within the Constitutional Court is increasingly evident through various non-judicial activities aimed at discussing the need to attribute this jurisdiction to the Constitutional Court. One example of such non-judicial activity is the Court's initiative to send judges to enhance their knowledge and deepen their understanding of the concept and implementation of constitutional complaint jurisdiction. This practice occurred in September 2005, when Deputy Chief Justice Laica Marzuki was sent to learn about the practical application of constitutional complaint jurisdiction at the Constitutional Courts of South Africa and Spain.¹¹⁶ Additionally, from November 19 to December 2, 2008, Chief Justice Mahfud MD, along with Justices Akil Mochtar and Maruarar Siahaan, visited the German Constitutional Court, which provided an opportunity to study the mechanisms for implementing constitutional complaint jurisdiction and addressing constitutional questions.¹¹⁷

Another non-judicial activity undertaken by the Constitutional Court to explore constitutional complaint jurisdiction involves comprehensive studies, in-depth analyses, and thorough research engaging academics, legal experts, and stakeholders to further investigate the urgency of constitutional complaints and constitutional questions within Indonesia's legal enforcement framework.¹¹⁸ Throughout these activities, the Constitutional Court has consistently maintained that it lacks jurisdiction to handle constitutional complaints, despite the pressing need for such

¹¹³ Refer to the welcoming remarks delivered by Mahfud MD, who stated that as a former constitutional judge, he often encountered concrete issues of constitutional rights violations. See furthermore Palguna, *Pengaduan Konstitusional (Constitutional Complaint) Upaya Hukum terhadap Pelanggaran Hak-Hak Konstitusional Warga Negara*.

¹¹⁴ This statement was expressed by Constitutional Judge Harjono on Tuesday, 24th April 2012, during a meeting with Pieter Witterauf from the Hans-Seidel Foundation (HSF) Germany. See furthermore Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2012: Dinamika Penegakan Hak Konstitusional Warga Negara," 138. Accessed on 2nd July 2023.

¹¹⁵ M. Adib Akmal Hamdi, "Perubahan Undang-Undang Dasar Secara Informal Melalui Tafsir Konstitusi dalam Pengujian Undang-Undang Terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945" (Skripsi, Fakultas Hukum Universitas Airlangga, 2023).

¹¹⁶ Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2005: Mengawal Hak Konstitusional Rakyat," 106.

¹¹⁷ Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2009: Mengawal Demokrasi Menegakkan Keadilan Substantif," 53.

¹¹⁸ Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2010: Membangun Demokrasi Substantif Meneguhkan Integritas Institusi," 19. The relevance of the above information can be linked to the Annual Reports of the Indonesian Constitutional Court for the years 2011, 2012, and 2013.

jurisdiction to be incorporated into the 1945 Constitution. This is demonstrated through several activities organized by the Constitutional Court, including book launches,¹¹⁹ constitutional debate competitions,¹²⁰ an International Symposium on Constitutional Complaints,¹²¹ and Focus Group Discussion that focus on the “Urgency of Constitutional Complaints for the Advancement and Protection of Citizens’ Constitutional Rights in Indonesia.”¹²²

Utilizing demand and supply theory alongside the theory of judicial reputation, it becomes evident that the Indonesian Constitutional Court engages in numerous significant activities concerning constitutional complaints due to their perceived importance for the thorough protection of constitutional rights. From a comparative standpoint, various Constitutional Courts have acknowledged constitutional complaint jurisdiction as an integral component of judicial practices aimed at maximizing the protection of citizens’ constitutional rights. This supply aspect fosters a conviction within the Constitutional Court that all violations of constitutional rights, including unconstitutional legislation and transgressions by public officials, must be adjudicated by the judiciary, with only the Constitutional Court being equipped to do so. Intensive trans-judicial communication among the judges of the Constitutional Court—through learning, deepening their understanding, and visiting other judicial institutions that have successfully implemented constitutional complaint jurisdiction—provides them with insights into the possibilities and challenges that may arise if constitutional complaint jurisdiction were truly adopted as part of their constitutional authority.

Moreover, the academic backgrounds of many constitutional judges, including Justice Jimly Asshiddiqie, Justice Mahfud MD, Justice Saldi Isra, Justice Arief Hidayat, Justice Daniel Yusmic Foekh, Justice I Dewe Gede Palguna, Justice Maria Farida Indrati, Justice Harjono, Justice Enny Nurbaningsih, and others who have served as university lecturers, significantly shape their views and readiness to assign constitutional complaint jurisdiction to the Constitutional Court. Various academic works, theses, or dissertations—such as Justice I Dewe Gede Palguna’s dissertation at the University of Indonesia in 2011—highlighting the necessity to confer constitutional complaint

¹¹⁹ This event was held on 17th November 2008, during the book launch of “German Constitutional Law, Selected Cases” by Siegfried Bross, a constitutional judge from the German Constitutional Court. At the event, Mahfud MD emphasized the functions and authority of the Indonesian Constitutional Court, which did not yet have the power of constitutional complaint and constitutional questions. See furthermore Mahkamah Konstitusi Republik Indonesia, “Enam Tahun Mengawal Konstitusi dan Demokrasi: Gambaran Singkat Pelaksanaan Tugas Mahkamah Konstitusi 2003-2009,” 2009, 472, https://www.mkri.id/public/content/infoumum/laporantahunan/pdf/6_TAHUN_MK_MENGAWAL_KONSTITUSI_DAN_DEMOKRASI_1.pdf.

¹²⁰ The Constitutional Debate Competition organized by the Constitutional Court was held from 3rd May to 8th July 2011. One of the topics discussed was “The Authority of the Constitutional Court to Decide Constitutional Complaints.” See furthermore Mahkamah Konstitusi Republik Indonesia, “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2011: Menegakkan Negara Demokrasi Konstitusional,” 160. Accessed on 3rd July 2023.

¹²¹ This event was organized by the Indonesian Constitutional Court based on the global dynamics that showed rapid development in the practice of constitutional complaint, which is an instrument that can provide maximum protection for constitutional rights of citizens. The lack of authority for constitutional complaint was the main reason for organizing this event. The event was divided into three sessions: (1) “Constitutional Complaint as a Means of Protecting Human Rights”; (2) “Comparison of Views on Constitutional Complaint”; and (3) “Issues and Challenges in Handling Constitutional Complaint Cases.” See furthermore Mahkamah Konstitusi Republik Indonesia, “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2015: Dinamika Pembangunan Budaya Hukum dan Demokrasi Lokal,” 85–86. Accessed on 3rd July 2023.

¹²² Mahkamah Konstitusi Republik Indonesia, “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2020: Meneguhkan Supremasi Konstitusi di Masa Pandemi,” 47. Accessed on 3rd July 2023.

jurisdiction to the Court¹²³ have encouraged judges to advocate for and raising public awareness of the concept of constitutional complaints.

The educational backgrounds of the judges facilitate familiarity with the discourse surrounding constitutional complaints, fostering to shared perspective, vision, and mutual understanding regarding the urgency of bestowing constitutional complaint jurisdiction upon the Constitutional Court. A judge's colleague who shares the same viewpoint on a constitutional issue is likely to achieve consensus within the court before introducing it broadly to the public. As previously mentioned, Justice Harjono's statement also affirms that the judges of the Constitutional Court are striving to accommodate constitutional complaint jurisdiction through their decisions without following the formal constitutional amendment procedure. Thus, it is evident that the judges of the Constitutional Court have collectively recognized the significance of granting constitutional complaint jurisdiction to the Court.

The judges of the Constitutional Court play a pivotal role in promoting the concept of constitutional complaints—an urgent matter that should be attributed to the Court—through their non-judicial activities. These efforts aim to work shape public opinion and instill strong confidence among the public that the Constitutional Court is the only capable institution to exercise jurisdiction over constitutional complaints. Through a range of non-judicial initiatives, the constitutional judges utilizes strategies to influence build public opinion as a means to navigate the politically sensitive obstacle of formally amending the constitution, as outlined in Article 37 of the 1945 Constitution. Such non-judicial activities continually foster discussions, debates, and public discourse on specific issues, thus reducing the likelihood of conferring constitutional complaint jurisdiction to other institutions outside the Constitutional Court.

From this overview of how the Constitutional Court conducts its non-judicial activities, it can be concluded that these efforts are essential for building popularity, starting with increasing public awareness and exposure regarding the Court as a new institution established after the third amendment to the 1945 Constitution. Additionally, non-judicial activities serve to reinforce the understanding that maintaining and developing a constitutional state relies not just on decisions but also on public knowledge and awareness of constitutional rights. Consequently, various efforts are necessary to engage the public in activities of the Constitutional Court. In terms of its judicial role, the Court also recognizes the importance of providing support in capacity-building and services for the public or potential litigants. To this end, the Constitutional Court participates in different non-judicial activities, including providing technical guidance on judicial matters. Globally, as part of the community of judges and judicial bodies, the above overview illustrates that the Indonesian Constitutional Court requires ongoing dialogue with peers and similar institutions to facilitate constitutional discussions.

In addition to their foundational purposes, non-judicial activities serve as a means for the Constitutional Court to shape public opinion by focusing on specific issues, namely popularity, while also protecting its decisions from being overlooked by other judicial institutions, thereby minimizing the risk of reversals. This is achieved through various initiatives that promote the dissemination of Constitutional Court decisions, aimed at generating public discourse with the

¹²³ Pay attention to the welcoming remarks delivered by Mahfud MD and Jimly Asshiddiqie. See furthermore Palguna, *Pengaduan Konstitusional (Constitutional Complaint) Upaya Hukum terhadap Pelanggaran Hak-Hak Konstitusional Warga Negara*.

hope that these decisions will be observed and respected. Furthermore, the various non-judicial activities related to expanding the authority of the Constitutional Court are designed to influence public perception.

Various non-judicial activities provide advantages for both institutions and judges. However, these do not necessarily translate into positive outcomes for the Constitutional Court, as the judiciary's reputation is fundamentally reliant on the quality of its decisions, along with the independence, impartiality, and integrity of the Court. The Constitutional Court faced a significant decline in public trust following the arrest of Constitutional Judge Akil Mochtar,¹²⁴ who was implicated in a bribery scandal related to a regional election dispute in Lebak Banten. This incident represents one of the most significant scandals in the history of judicial power in Indonesia,¹²⁵ with Akil Mochtar's corruption, bribery, and money laundering actions severely damaging the positive image of the Constitutional Court. Public trust plummeted from 65.5% in March 2013 to 8.8% in October 2013.¹²⁶

The Indonesian Survey Circle (LSI) noted that prior to the Akil Mochtar case, the Constitutional Court enjoyed a consistent level of public trust above 60%. For instance, in October 2010, the public trust index stood at 63.7%. although it dropped to 61.5% in September 2011, it rebounded significantly to 65.5% by March 2013.¹²⁷ in the aftermath, only 28% of the Indonesian population expressed trust in the Constitutional Court,¹²⁸ with a distrust rate of 66.5%.¹²⁹ Additionally, 72.69% of the public perceived that constitutional judges, like other judges, were corrupt and lacked integrity, while only 19.91% believed that judges in the Constitutional Court maintained their honesty.¹³⁰

Internally, the Constitutional Court conducted an evaluation through its Final Performance Report, which assessed the Corruption Perception Index (CPI). This index was evaluated based on seven indicators: job manipulation, abuse of power, collusion, transparency of procedures, and clarity of costs.¹³¹ Among the 154 respondents analyzed, the Performance Measurement Survey in 2019 rated the Corruption Perception Index as "very good."¹³² However, a more objective external assessment conducted by the Populi Center indicated the level of trust in state institutions, Revealing

¹²⁴ Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2006," 2; Mahkamah Konstitusi Republik Indonesia, "Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2014: Menegakkan Konstitusionalisme dalam Dinamika Politik," 2014, 111. Accessed on 13th July 2023.

¹²⁵ Tri Wahono, "'Akal Akal Akil', Cerita di Balik Skandal Korupsi Akil Mochtar," *Nasional.kompas.com*, 2014, <https://nasional.kompas.com/read/2014/11/25/19275661/.Akal.Akal.Akil.Cerita.di.Balik.Skandal.Korupsi.Akil.Mochtar>. Accessed on 13th July 2023.

¹²⁶ Toto Suryaningtyas, "Jajak Pendapat 'Kompas': Wajah Lembaga yang Tercoreng Kasus," *Nasional.kompas.com*, 2015, <https://nasional.kompas.com/read/2015/05/04/15121611/Jajak.Pendapat.Kompas.Wajah.Lembaga.yang.Tercoreng.Kasus>. Accessed on 13th July 2023.

¹²⁷ Cipta Uli Mediana, "Manajemen Krisis Mahkamah Konstitusi Pada Kasus Akil Mochtar" (Universitas Diponegoro, 2016). Accessed on 13th July 2023.

¹²⁸ Dea Cipta Permatasari, "Public Opinion Analysis and Root Cause Analysis of Akil Mochtar's Case in Constitutional Court," Universitas Indonesia Library, 2014, <https://lib.ui.ac.id/detail?id=20369057&lokasi=lokal>. Permatasari. Accessed on 13th July 2023.

¹²⁹ Ahmad Islamy Jamil dan Nidia Zuraya, "LSI: Akil Hancurkan Kepercayaan Publik kepada MK," *Republika*, 2013, <https://news.republika.co.id/berita/mu8qn4/lsi-akil-hancurkan-kepercayaan-publik-kepada-mk>. Accessed on 13th July 2023.

¹³⁰ Jamil dan Zuraya.

¹³¹ Mahkamah Konstitusi Republik Indonesia, 'Laporan Akhir Survei Eksternal Pengukuran Kinerja Mahkamah Konstitusi Tahun 2019', 2019, 13-14. Accessed on 13th July 2023.

¹³² Mahkamah Konstitusi Republik Indonesia, 178.

that the Constitutional Court had a trust level of 66.2% among the Indonesian population, placing it fifth from the bottom among twelve state institutions.¹³³

CONCLUSION

The main role of judicial bodies is to adjudicate and resolve cases, a responsibility that significantly influences their reputation and the degree of public trust. Thus, judicial decisions are pivotal in shaping the reputation of the judiciary, which relies on the independence and impartiality of the judges. However, beyond their essential duty to review and settle cases, the judiciary and its judges engage in various activities that are not directly related to adjudication. Since its establishment in 2003, the Constitutional Court of Republic of Indonesia has been involved in various non-judicial activities that exceed its judicial mandate. These non-judicial efforts provide several benefits to the Indonesian Constitutional Court, including enhanced visibility, greater public interest, reduced risk of reversals of its decisions by other judicial entities, and an improved reputation and influence. In terms of visibility, the Constitutional Court, as a newer institution compared to the Supreme Court, actively engages in various non-judicial activities to raise awareness of its functions and to achieve wider public exposure. Furthermore, these activities serve as tools for exerting and promoting public interest. While these pursuits may offer advantages for the institution, judges, and the general public, they do not automatically ensure a favorable impact on the Constitutional Court's reputation. Ultimately, the reputation of the judiciary is primarily determined by the quality of its decisions, which must be grounded in the independence, impartiality, and integrity of the Constitutional Court. Having been established for over 20 years, the Constitutional Court recognizes the need for non-judicial activities to introduce the new judiciary to the public in a way that fosters trust. However, this article recommends a reduction in non-judicial activities to focus instead on delivering credible decisions based on sound judicial reasoning that addresses fundamental issue facing the state and society.

REFERENCES

- Agnes, Michael, ed. *Webster's New World College Dictionary*. 4. ed. [Nachdr.]. Cleveland, Ohio: Wiley, 2010.
- Ahmad, Ahmad, Fence M. Wantu, dan Dian Ekawaty Ismail. "Convergence of Constitutional Interpretation to the Test of Laws Through a Constitutional Dialogue Approach: Konvergensi Penafsiran Konstitusional Terhadap Pengujian Undang-Undang Melalui Pendekatan Constitutional Dialogue." *Jurnal Konstitusi* 20, no. 3 (1 September 2023): 514–35. <https://doi.org/10.31078/jk2038>.
- Barak, Aharon. *The Judge in a Democracy*. 1. paperback print. Princeton, NJ: Princeton Univ. Press, 2008.
- Bassok, Or. "The Schmitelsen Court: The Question of Legitimacy." *German Law Journal* 21, no. 2 (2020).
- Beatson, Jack. "Should Judges Conduct Public Inquiries." *Israel Law Review* 37, no. 2–3 (2004).

¹³³ Public Opinion & Policy Research (Populi) Center, "Masa Depan Pembangunan dan Demokrasi: Menakar Komitmen Capres 2024," 2023, 8. Accessed on 13th July 2023.

- Bell, Peter Alan. "Extrajudicial Activity of Supreme Court Justices." *Stanford Law Review* 22, no. 3 (1970).
- Bittker, Boris I. "Interpreting The Constitution: Is The Intent of The Framers Controlling? If Not, What Is?" *Harvard Journal of Law and Public Policy* 19, no. 1 (1996).
- Bouvier, John. *A law dictionary, adapted to the Constitution and laws of the United States of America, and of the several states of the American union: with references to the civil and other systems of foreign law*. 2nd ed. Clark, N.J: Lawbook Exchange, 2004.
- Bryan A. Garner. *Black's Dictionary*. 9th ed. Thomson Reuters business, 2009.
- Chakim, M. Lutfi. "A Comparative Perspective on Constitutional Complaint: Discussing Models, Procedures, and Decisions." *Constitutional Review* 5, no. 1 (2019).
- Constitutional Court of Germany. "2021 Annual Report of The German Constitutional Court," 2021.
- . "2022 Annual Report of The German Constitutional Court," 2022.
- . "BVerfGE 2835/17." The Federal Constitutional Court, 2020. https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2020/05/rs20200519_1bvr283517en.html.
- Dothan, Shai. *Reputation and Judicial Tactics: A Theory of National and International Courts*. New York: Cambridge University Press, 2015.
- Dubeck, Leslie B. "Understanding 'Judicial Lockjaw': The Debate over Extrajudicial Activity." *New York University Law Review* 82, no. 2 (2007).
- Ekins, Richard. *Judicial Power and the Balance of Our Constitution: Two Lectures by John Finnis*. London: Policy Exchange, 2018.
- Epstein, Lee, William M. Landes, dan Richard A. Posner. *The Behavior of Federal Judges: A Theoretical & Empirical Study of Rational Choice*. Massachusetts: Harvard University Press, 2013.
- Epstein, Lee, dan Keren Weinshall. *The Strategic Analysis of Judicial Behavior*. Cambridge: Cambridge University Press, 2021.
- European Court of Human Rights. *Big Brother Watch and Others v. The United Kingdom* (2021).
- . *CENTRUM FÖR RÄTTVISA v. SWEDEN* (2021).
- Faiz, Pan Mohammad. "A Prospect and Challenges for Adopting Constitutional Complaint and Constitutional Question in The Indonesian Constitutional Court." *Constitutional Review* 2, no. 1 (2016).
- FELDMAN, NOAH R. SULLIVAN, KATHLEEN M. *CONSTITUTIONAL LAW*. Place of publication not identified: WEST ACADEMIC Press, 2019.
- Friedman, Peter. "What is a Judicial Author?" *Mercer Law Review* 62, no. 2 (2011).
- Garoupa, Nuno, dan Tom Ginsburg. "Judicial Audiences and Reputation: Perspectives from Comparative Law." *Columbia Journal of Transnational Law* 47, no. 451 (2009).
- . *Judicial Reputation: A Comparative Theory*. The University of Chicago press, 2015.
- . "Judicial Roles in Nonjudicial Functions." *University of Chicago Public Law & Legal Theory Working Paper*, no. 460 (2014).

- . “Reputation, Information, and the Organization of the Judiciary.” *Journal of Comparative Law* 4, no. 2 (2009).
- Hamdi, M. Adib Akmal. “Perubahan Undang-Undang Dasar Secara Informal Melalui Tafsir Konstitusi dalam Pengujian Undang-Undang Terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.” Skripsi, Fakultas Hukum Universitas Airlangga, 2023.
- Hukumonline.com. “MK-KY Sepakat Gunakan Bangalore Principles untuk Pedoman Kode Etik,” 2005. <https://www.hukumonline.com/berita/a/mkky-sepakat-gunakan-ibangalore-principlesi-untuk-pedoman-kode-etik-ho113395/>.
- Isra, Saldi. *Lembaga Negara: Konsep, Sejarah, Wewenang, dan Dinamika Konstitusional*. Depok: PT. RajaGrafindo Persada, 2020.
- Israel, Supreme Court of. *United Mizrahi Bank v. Migdal Cooperative Village* (1995).
- Jamil, Ahmad Islamy, dan Nidia Zuraya. “LSI: Akil Hancurkan Kepercayaan Publik kepada MK.” *Republika*, 2013. <https://news.republika.co.id/berita/mu8qn4/lsi-akil-hancurkan-kepercayaan-publik-kepada-mk>.
- Lamb, Charles M., dan Jacob R. Neiheisel. *Constitutional Landmarks: Supreme Court Decisions on Separation of Powers, Federalism, and Economic Rights*, 2021.
- Lazega, Emmanuel. “Mapping Judicial Dialogue across National Borders: An Explanatory Network Study of Learning from Lobbying among European Intellectual Property Judges.” *Utrecht Law Review* 8, no. 2 (2012).
- Lee, H.P. *Judiciaries in Comparative Perspective*. New York: Cambridge University Press, 2011.
- L’Heureux-Dube, Claire. “The Importance of Dialogue: Globalization and the International Impact of the Rehnquist Court.” *Tulsa Law Journal* 34, no. 1 (1998).
- Mahkamah Konstitusi Republik Indonesia. “Enam Tahun Mengawal Konstitusi dan Demokrasi: Gambaran Singkat Pelaksanaan Tugas Mahkamah Konstitusi 2003-2009,” 2009. [https://www.mkri.id/public/content/infomum/laporantahunan/pdf/6 TAHUN MK MENGAWAL KONSTITUSI DAN DEMOKRASI_1.pdf](https://www.mkri.id/public/content/infomum/laporantahunan/pdf/6%20TAHUN%20MK%20MENGAWAL%20KONSTITUSI%20DAN%20DEMOKRASI_1.pdf).
- . “Laporan Akhir Survei Eksternal Pengukuran Kinerja Mahkamah Konstitusi Tahun 2019,” 2019.
- . “Laporan Mahkamah Konstitusi Republik Indonesia Tahun 2021: Transformasi Digital untuk Penegakan Konstitusi,” 2021.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2005: Mengawal Hak Konstitusional Rakyat,” 2005.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2006,” 2006.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2008: Menegakkan Keadilan Substantif,” 2008.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2009: Mengawal Demokrasi Menegakkan Keadilan Substantif,” 2009.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2010: Membangun Demokrasi Substantif Meneguhkan Integritas Institusi,” 2010.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2011: Menegakkan Negara Demokrasi Konstitusional,” 2011.

- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2012: Dinamika Penegakan Hak Konstitusional Warga Negara,” 2012.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2013: Menjaga Independensi Menyongsong Pemilu 2014,” 2013.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2014: Menegakkan Konstitusionalisme dalam Dinamika Politik,” 2014.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2015: Dinamika Pembangunan Budaya Hukum dan Demokrasi Lokal,” 2015.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2016: Harmoni Sosial dan Budaya Demokrasi yang Berkeadilan,” 2016.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2020: Meneguhkan Supremasi Konstitusi di Masa Pandemi,” 2020.
- . “Laporan Tahunan Mahkamah Konstitusi Republik Indonesia Tahun 2022,” 2022.
- . “WCCJ - 5th Congress, Bali, 2022.” Diakses 12 Juli 2023. <https://wccj5.mkri.id/histor>.
- Maimun, Maimun, dan Dani Amran Hakim. “Siyāsah Syar’iyyah and Its Application to Constitutional Issues in Indonesia.” *As-Siyasi : Journal of Constitutional Law* 3, no. 1 (20 Juni 2023): 111–30. <https://doi.org/10.24042/as-siyasi.v3i1.15710>.
- Manili, Pablo Luis. “Decree With Legislative Content in Comparative Constitutional Law.” *As-Siyasi* 4, no. 1 (20 Juni 2024): 33–57. <https://doi.org/10.24042/as-siyasi.v4i1.22711>.
- MATHEN, DR CARISSIMA. *COURTS WITHOUT CASES: The Law and Politics of Advisory Opinions*. S.l.: HART PUBLISHING, 2019.
- McKay, Robert B. “Judges, the Code of Judicial Conduct, and Nonjudicial Activities.” *Utah Law Review* 391 (1972).
- . “The Judiciary and Nonjudicial Activities.” *Law and Contemporary Problems* 35, no. 1 (1970).
- Mediana, Cipta Uli. “Manajemen Krisis Mahkamah Konstitusi Pada Kasus Akil Mochtar.” Universitas Diponegoro, 2016.
- Meuwese, Anne, dan Marnix Snel. “‘Constitutional Dialogue’: An Overview.” *Utrecht Law Review* 9, no. 2 (25 Maret 2013): 123. <https://doi.org/10.18352/ulr.231>.
- Murkens, Jo Eric Khushal. “Comparative Constitutional Law in The Courts: Reflections on the Originalists’ Objections.” *Verfassung und Recht in Übersee / Law and Politics in Africa, Asia and Latin America* 41, no. 1 (2008).
- Omara, Andy, dan Faiz Rahman. “Why Constitutional Courts Back Death Penalty? Insights from Indonesia and South Korea.” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 27 November 2024, 321–40. <https://doi.org/10.24090/volksgeist.v7i2.10773>.
- Palguna, I Dewa Gede. “Constitutional Complaint and The Protection of Citizens The Constitutional Rights.” *Constitutional Review* 3, no. 1 (2017).
- . *Pengaduan Konstitusional (Constitutional Complaint) Upaya Hukum terhadap Pelanggaran Hak-Hak Konstitusional Warga Negara*. Jakarta: Sinar Grafika, 2013.

- Permatasari, Dea Cipta. "Public Opinion Analysis and Root Cause Analysis of Akil Mochtar's Case in Constitutional Court." Universitas Indonesia Library, 2014. <https://lib.ui.ac.id/detail?id=20369057&lokasi=lokal>.
- Posner, Richard A. "Judicial Behaviour and Performance: An Economic Approach." *Florida State University Law Review* 32, no. 1259 (2005).
- . *Overcoming Law*. 3. print. Cambridge, Mass.: Harvard University Press, 1996.
- . "What Do Judges and Justices Maximize? (The Same Thing Everybody Else Does)." *Supreme Court Economic Review* 3 (1993).
- Public Opinion & Policy Research (Populi) Center. "Masa Depan Pembangunan dan Demokrasi: Menakar Komitmen Capres 2024," 2023.
- Riyadi, Sugeng, Muhammad Fauzan, Idamatussilmi Idamatussilmi, dan Asep Budiman. "The Urgency of Establishing Constitutional Court Procedural Law." *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 27 Desember 2023, 209–23. <https://doi.org/10.24090/volksgeist.v6i2.9607>.
- Shapira, Roy. *Law and Reputation: How the Legal System Shapes Behavior by Producing Information*. Cambridge: Cambridge University Press, 2020.
- Shetreet, Shimon, dan Sophie Turenne. *Judges on Trial: The Independence and Accountability of the English Judiciary*. Cambridge University Press, 2013.
- Simonis, Mindaugas. "The Role of Judicial Ethics in Court Administration: From Setting The Objectives to Practical Implementation." *Baltic Journal of Law & Politics* 10, no. 1 (2017).
- Sinclair, John M., G. A Wilkes, dan W. A Krebs. *Collins English Dictionary 21st Century Edition*. HarperCollins Publishers, 2000.
- Slaughter, Anne-Marie. "A Global Community of Courts." *Harvard International Law Journal* 44, no. 1 (2003).
- . *A New World Order*. Princeton University Press, 2004.
- . "A Typology of Transjudicial Communication." *University of Richmond Law Review* 29, no. 1 (1994).
- Supreme Court of Canada. *R v Bissonnette* (2022).
- Supreme Court of Sierra Leone. *John Joseph Akar v. The Attorney General of Sierra Leone* (1968).
- Supreme Court of United Kingdom. "Guide to Judicial Conduct (2019)." Supreme Court of United Kingdom. Diakses 30 Juni 2023. <https://www.supremecourt.uk/docs/guide-to-judicial-conduct.pdf>.
- Suryaningtyas, Toto. "Jajak Pendapat 'Kompas': Wajah Lembaga yang Tercoreng Kasus." Nasional.kompas.com, 2015. <https://nasional.kompas.com/read/2015/05/04/15121611/Jajak.Pendapat.Kompas.Wajah.Lembaga.yang.Tercoreng.Kasus>.
- United Nations Office on Drugs and Crime. "Commentary on The Bangalore Principles of Judicial Conduct," 2007.
- . "The Summary Record of The Round Table Meeting of Chief Justices to Review The Bangalore Draft Code of Judicial Conduct." The Hague, 2002.

- Vile, John R. *Essential Supreme Court Decisions: Summaries of Leading Cases in U.S. Constitutional Law*. 15. ed. Lanham: Rowman & Littlefield, 2010.
- Wahono, Tri. “‘Akal Akal Akil’, Cerita di Balik Skandal Korupsi Akil Mochtar.” Nasional.kompas.com, 2014. <https://nasional.kompas.com/read/2014/11/25/19275661/.Akal.Akal.Akil.Cerita.di.Balik.Skandal.Korupsi.Akil.Mochtar>.
- Waters, Melissa A. “Mediating Norms and Identity: The Role of Transnational Judicial Dialogue in Creating and Enforcing International Law.” *The Georgetown Law Journal* 93, no. 2 (2005).
- Wheeler, Russell. “Extrajudicial Activities of United States Supreme Court Justices: The Constitutional Period, 1790-1809.” University of Chicago, 1970.