

**THE CONSTITUTIONAL COURT OF
THE REPUBLIC OF INDONESIA**

**MAINTAINING PUBLIC TRUST TO THE
CONSTITUTIONAL COURT**

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The AACC International Short Course
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Assalamualaikum Wr. Wb.

The name of God, may peace and prosperity be upon us all.
Good afternoon and blessing to all of us.

- **Honorable delegates from the Association of Asian Constitutional Courts and Equivalent Institutions (AACC)**
- **Distinguished Speakers and Participants,**
- **Ladies and Gentlemen.**

I am honoured to be part of this **short course** and would like to express my sincere gratitude to His Excellency Chief Justice of the Constitutional Court of the Republic of Indonesia for the kind

invitation extended to me to give a presentation in the AACC International Short Course.

The theme of this event, "*Peace, Election, and Democracy*" is an important agenda for all countries. In interpreting the constitution, the constitutional courts can make a positive contribution by attenuating the cause of conflict and creating peace. The constitutional judge can thus contribute to pacifying election and democracy by favouring solutions that remain within the framework of the constitutional order.

Based on this interesting theme, I would like to give a presentation on "*Maintaining Public Trust To the Constitutional Court*" in the AACC International Short Course. To maintain public's trust in the judiciary, the Constitutional Court must perform its duties by adhering to ethical standards; effectively carrying out internal oversight; and good judiciary governance.

Ladies and Gentlemen

The establishment of the Constitutional Court in Indonesia is triggered for a variety of reasons. In general, it is initiated by the process of political change from authoritarian power to constitutional democracy. The constitutional reform in Indonesia started in 1998 with a regime change from an authoritarian to a

democratic state, and one of the developments resulting from the constitutional reform is that Indonesia created a new constitutional court.

In line with the momentum of the amendments constitution during the reform era. The Constitutional Court of Indonesia was established under the third amendment of the 1945 Constitution in 2001, and it was officially established on 13 August 2003 along with the enactment of the Law Number 24 of 2003 regarding the Constitutional Court.

With Law Number 24 Year 2003 as the starting point, and with reference to the principle of balance among the branches of state powers, the recruitment of Constitutional Court Justices was conducted by three state institutions, namely the House of Representative (DPR), the President, and the Supreme Court. After undergoing the selection stages according to the applicable mechanisms in each of the aforementioned institutions, each institution nominated three candidates for Constitutional Court Justice to the President to be stipulated as Constitutional Court Justices.

The Constitutional Court of Indonesia is one of the state institutions exercising independent judicial power in administering the judicial system with the aim of enforcing law and justice. The Constitutional Court has 5 (five) authorities as mentioned in Article

24C paragraph (1) and paragraph (2) of the Constitution. The authorities of the Court include hearing cases at the first and final stage, the decisions of which are final in conducting judicial review of the constitutionality of Acts, in deciding disputes concerning the authorities of state institutions whose authorities are vested under the Constitution, in making decisions regarding the dissolution of political parties, and in deciding disputes arising from the results of general elections. It is also the Court's responsibility to make decisions concerning opinion of the House of Representatives (DPR) related to alleged violations committed by the President and/or Vice President against the Constitution.

Based on its power and authorities, the Constitutional Court essentially functions as a guardian of the Constitution, democracy, and constitutional rights. Whenever there are laws that are repressing and revoking the constitutional rights, based on request by the people, the Constitutional Court of Republic Indonesia can play its role to protect, to promote, and to rehabilitate the constitutional right of the citizen from such suppression.

Based on these important authorities and functions, the Constitutional Court must establish and maintain public trust through its core responsibility of resolving constitutional disputes. Guided by the principles of procedural fairness, the constitutional

courts must enhance public trust by treating every party, including applicants, state institutions, experts, witnesses and other parties with dignity and respect.

Moreover, the Court justices and their supporting staff must help promote and maintain public trust by creating organizational cultures that foster integrity, transparency, and accountability in every court processes.

Ladies and Gentlemen,

Public trust to the court is further enhanced through the transparent of court procedures, providing public information regarding the court processes and hearing schedules, easy access to the court, and services for accessing the public documents such as decisions, regulations, e-journals, and research report.

Regarding judicial procedures, the Constitutional Court has established the procedural law related to the court hearing session. There are three types of hearings at the Constitutional Court, namely panel hearing, consultative meeting of justices (RPH), and plenary session.

1. Panel hearing

Panel hearing is a hearing which consists of 3 (three) Constitutional Court Justices assigned to carry out the task

of conducting preliminary examination. This hearing is conducted to examine the petitioners' legal standing and the substance of petitions. Constitutional Court Justices may give advice for revisions of the petitions.

2. Plenary session

A Plenary Session is a hearing conducted by the panel of Constitutional Court Justices attended by at least 7 (seven) Constitutional Court Justices. The hearing is open to the public with the agenda of hearing examination or decision pronouncement. Hearing examination includes listening to the petitioner, the statements of witnesses, experts, and the related parties as well as examination of instruments of evidence.

3. Consultative Meeting of Justices (RPH)

An RPH is a closed and confidential meeting. This meeting can only be attended by the Constitutional Court Justices and the Registrar. At this meeting, verdict of the Constitutional Court are discussed in depth and in detail, and passed. This meeting must be attended by at least seven justices. During a Consultative Meeting of Justices (RPH), the Registrar takes notes and records every discussed item and the conclusions.

Ladies and Gentlemen,

As a modern and reliable judiciary, the Constitutional Court of Indonesia applies e-court system. E-court is a form of technology-based judicial service that aims to improve the community's access to justice and access to the court. E-court system is applied through the concept of judicial administration system which includes the following:

1. Electronic Petition Management Information System (Simpel)

Electronic Petition Management is realized, among other things, in the form of Electronic Petition Management Information System or *Sistem Informasi Manajemen Permohonan Elektronik* (Simpel). With this system, people can do online registration, obtain a decision of the Court, the minutes of the hearing, the hearing schedule, and monitor the progress of the case online. Simpel can be accessed through the website of the Constitutional Court by selecting the menu item "Simpel".

2. Online Information Retrieval

Online Information Retrieval is a system to retrieve case files, minutes and decisions of the Constitutional Court easily when needed. This system includes Digital Online System and Archive System.

3. Court Recording System

Court Recording System is a technology which is able to record the entire hearing process, store it in audio and video data formats. With the help of this technology, the hearing transcript (minutes and decisions) can be directly accessed by the public several hours after the hearing is held.

4. Case Minute Management System

Case Minute Management System is a technology developed for recording the process of petition and proceedings at the Constitutional Court. These system and technology are available on the website of the Constitutional Court and in the Online Case System.

5. Video Conference

Video conference functions to increase public access to the Constitutional Court. Parties whose statements are needed in the hearing of the Constitutional Court while they are in certain areas located quite far from the hearing venue of the Constitutional Court, need not be physically present before the Constitutional Court, as they can use zoom application or go to any one of the 42 law faculties in every province cooperating with the Constitutional Court to conduct long-distance hearings utilizing video conference technology. This technology is also needed in cross-country cases, or cases

requiring the statements of witnesses or experts from abroad.

Ladies and Gentlemen,

The institutional organization of the Court is supported by a Secretariat and a Registrar's Office of the Constitutional Court. The Court would not be able to function properly without their support. The substance, methods, and the direction of the Court's work are determined by nine Constitutional Justices along with the support of the Court's Secretariat and Registrar's Office.

In line with the duties and authorities assigned, the Court decisions are extremely important, as such decisions manifest the ultimate achievements of the Justices and the barometer in defining the existence of its institution known as the guardian of the Constitution and the final interpreter of the Constitution. The significance of Constitutional Justices is in fact the state administrative judicial institution would be meaningless without the support of the Court's Secretariat and Registrar's Office.

Therefore, to improve public trust, the capacity and professionalism of the personnel of the Secretariat General and the Registrar's Office of the Constitutional Court are also being continuously enhanced. This is done through a series of activities related to employee development efforts, namely education and

training, technical, structural education and training, title pioneering and internship at the Constitutional Courts or Supreme Courts of friendly countries.

Ladies and Gentlemen,

Another effort to maintain public trust is that the Court justices is also guided by the Code of Ethics and Conduct of Constitutional Justice (the Code of Ethics). Under the Constitutional Court Law, it is regulated that for the purpose of maintaining and enforcing integrity and an impeccable personality, justice, and statesmanship; justices shall be required to adhere to the Code of Ethics. The Constitutional Court has enacted **Constitutional Court Regulation Number 9/PMK/2006** concerning the Enforcement of the Declaration of the Code of Ethics and Conduct of Constitutional Justices. The Code of Ethics basically adopts **the Bangalore Principles**, which are intended to establish standards for ethical conduct of justices.

They are designed to provide guidance to justices and to offer the judiciary a framework for regulating judicial conduct. **Seven core values are recognized:** Independence, impartiality, integrity, propriety, equality and finally competence and diligence. The Principles define their meaning and elaborate in detail on what kind of conduct is to be expected in concrete terms of the persons concerned in order to put the respective value into practice.

To enforce the Code of Ethics, the Honorary Council of the Constitutional Court (*Majelis Kehormatan Mahkamah Konstitusi, MKMK*) is established, which has the function of monitoring, examining and recommending measures to be taken against Constitutional Court Justices who are alleged of having violated the Code of Ethics for Justices.

However, the MKMK is a temporary institution, it will only be established when a constitutional justice is found violating the Code of Ethics. In addition, the Court also established the Board of Ethics of Constitutional Justice (*Dewan Etik Hakim Konstitusi*) as a permanent institution, which cannot be separated from the effort to uphold a code of ethics and maintain of the dignity of the constitutional justices.

These efforts are to ensure the proper provision of services that can maintain public trust to the Court. Therefore, the services to the petitioners and the stakeholders and the community must also be implemented in the best possible manner.

Ladies and Gentlemen,

It is not possible to cover all aspects of the topic in a single presentation. Summarizing the above, I would like to note that maintaining public trust to the Court is a fundamental importance for the development of the constitution and constitutionalism.

I think that this short course will help us all better understand the issues raised for discussion, exchange positive experiences and develop effective ways to solve modern challenges on how to maintain public trust to the Court.

I may come to the end of my presentation at this moment.

Thank you very much for your kind attention.

Wassalamualaikum Wr. Wb.



**The Constitutional Court of the
Republic of Indonesia**

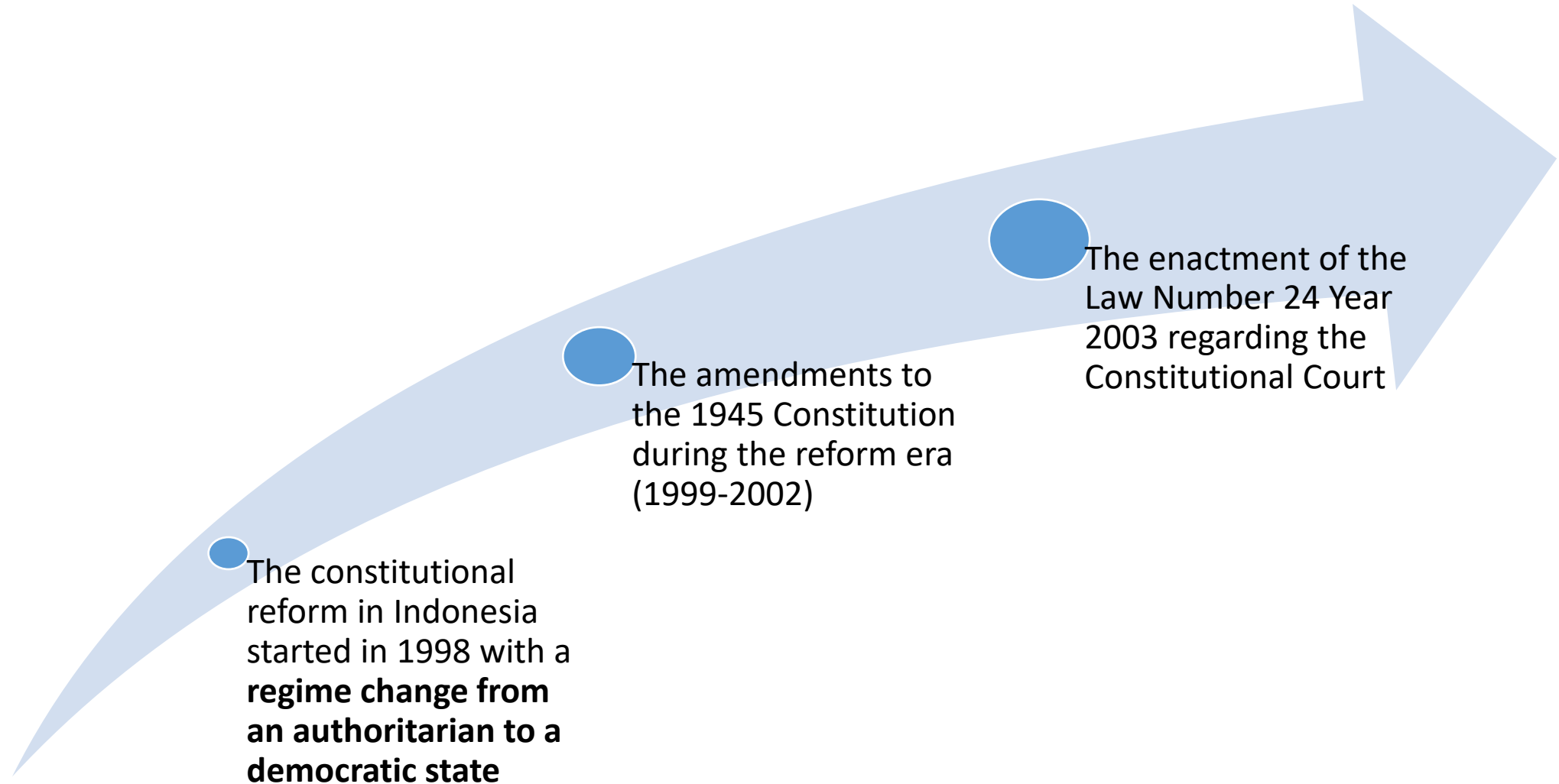
MAINTAINING PUBLIC TRUST TO THE CONSTITUTIONAL COURT

Prof. Dr. Eddy Nurbaningsih, S.H., M.Hum.
(Justice of the Constitutional Court of Indonesia)



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THE ESTABLISHMENT OF THE CONSTITUTIONAL COURT



AUTHORITIES OF THE CONSTITUTIONAL COURT

Authorities

Art. 24C of the 1945 Constitution

1. Constitutional review of laws
2. Disputes concerning the Authorities of State Institutions
3. Political party dissolution
4. Disputes of General Election Results
5. Impeachment of the President and/or the Vice President

Functions

The Guardian of Constitution

The Final Interpreter of Constitution

The Guardian of Democracy

The Protector of Citizen's Constitutional Rights

The Protector of Human Rights

COURT SESSIONS

Panel Hearing

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- To examine the petitioners' legal standing and the substance of petitions
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Plenary Session

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- The hearing is open to the public with the agenda of hearing examination or decision pronouncement
- Hearing examination includes listening to the petitioner, the statements of witnesses, experts, and the related parties as well as examination of instruments of evidence.

Consultative Meeting of Justices (RPH)

- An RPH is a closed and confidential meeting
- This meeting can only be attended by the Constitutional Court Justices and the Registrar
- Verdict of the Constitutional Court are discussed in depth and in detail, and passed
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JUDICIAL ADMINISTRATION SYSTEM

Electronic Petition Management Information System (Simpel)

- Through Simple, people can do online registration, obtain a decision of the Court, the minutes of the hearing, the hearing schedule, and monitor the progress of the case online.

Online Information Retrieval

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Court Recording System

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Case Minute Management System

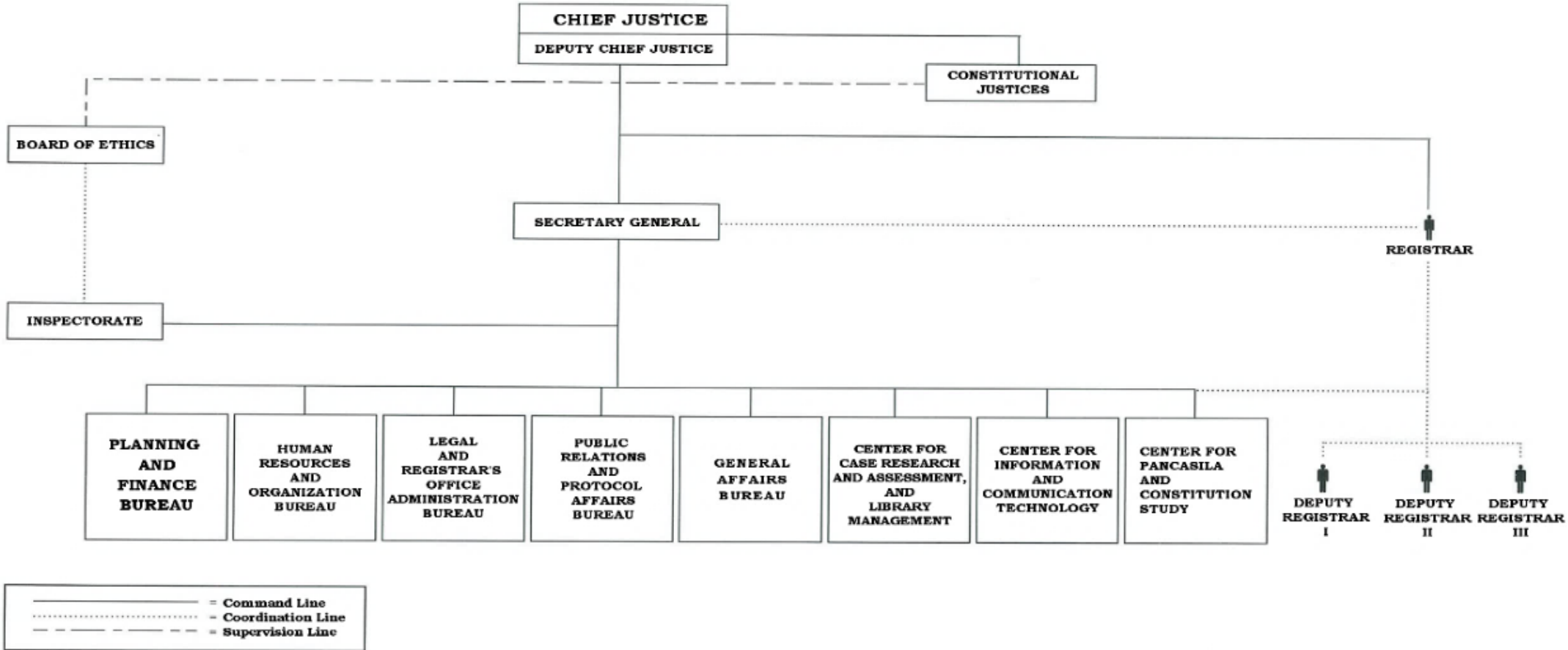
- A technology developed for recording the process of petition and proceedings at the Constitutional Court.

Video Conference

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ORGANIZATION OF THE CONSTITUTIONAL COURT

ORGANIZATIONAL STRUCTURE OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA



JUSTICES AND SUPPORTING SYSTEMS

JUSTICES

The Indonesian Constitutional Court shall consist of 9 (nine) justices

- three of them are nominated by the President;
- the other three are nominated by the Parliament; and
- the remaining three are nominated by the Supreme Court.

SUPPORTING SYSTEM OF JUSTICES

The Registrar's Office

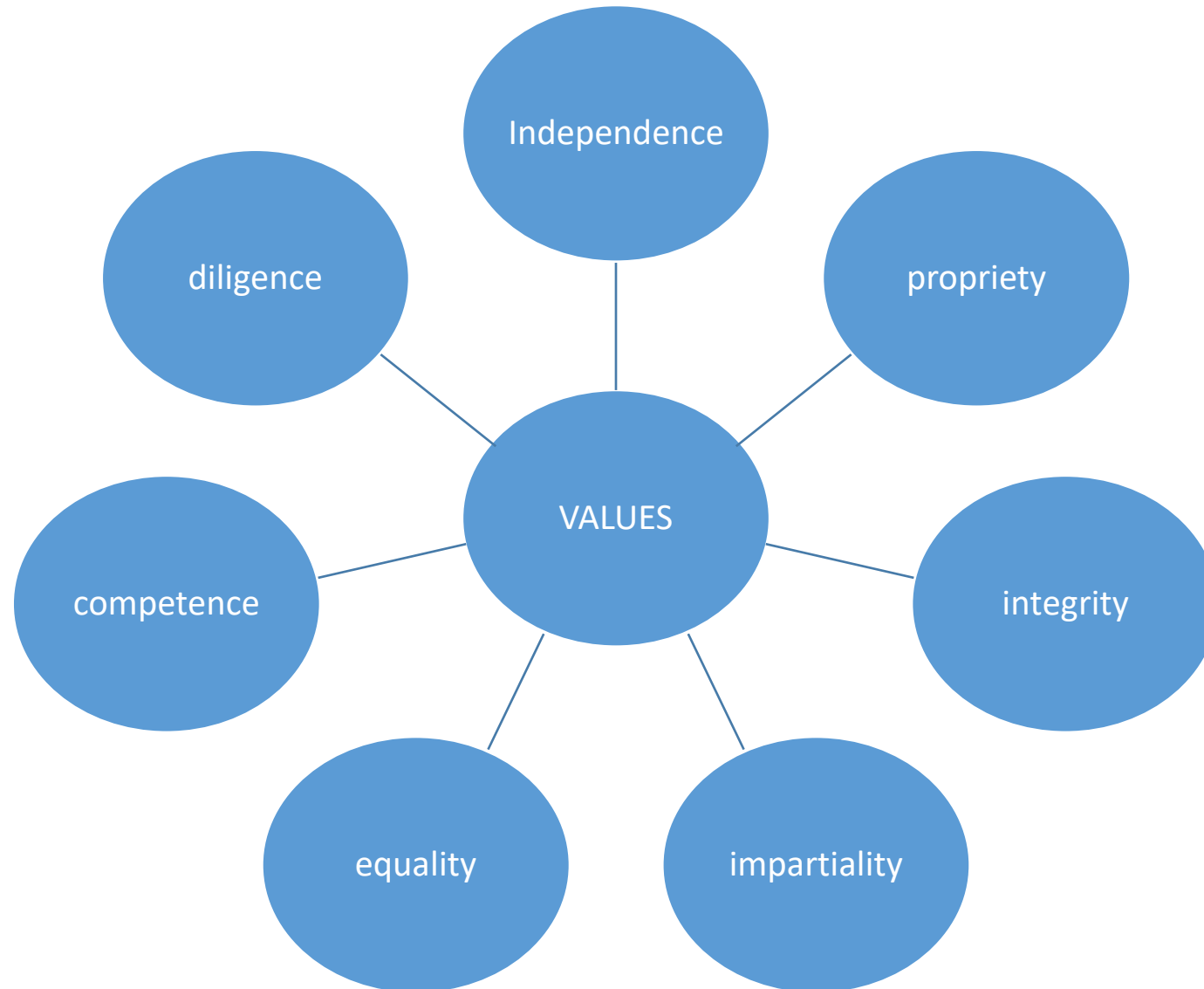
1 registrar, assisted by deputy registrars, senior substitute registrars, and substitute registrars

The Secretary General

The Secretary-General shall consist of at most five Bureaus and three centers. Moreover, within the Secretariat General, an Inspectorate was formed

- ❑ **Constitutional Court Regulation Number 9/PMK/2006** concerning the Enforcement of the Declaration of the Code of Ethics and Conduct of Constitutional Justices.
- ❑ The Code of Ethics basically adopts **the Bangalore Principles**, which are intended to establish standards for ethical conduct of justices.

CODE OF ETHICS VALUES



*THANK
you*

