

Due Process of Law and the Principle of Al-'Adalah in the Selection of Constitutional Judges: A Critique of the Single Candidate Method

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ABSTRACT

The practice of selecting a single candidate for constitutional judges by Commission III of the House of Representatives (DPR) has emerged as a serious issue, as it violates the due process of law and contradicts the principle of al-'adalah in Islamic law. The closed nature of this process, which lacks public participation and is heavily influenced by transactional politics, threatens the independence of the Constitutional Court as the ultimate guardian of the rule of law. This study employs library research, utilizing data sources such as books, scientific journal articles, research reports, and official documents. The research reveals three primary findings. First, the single-candidate method breaches the principles of due process of law—particularly fairness, transparency, and the opportunity to be heard—and subsequently deprives other potential candidates of their constitutional rights. Second, this approach is inconsistent with the principle of al-'adalah, as it disregards both procedural and substantive justice, violates the 'adalah requirement for candidates, and dismisses al-musyawahar alongside the prohibition of al-muhasabah. Third, the convergence of these two principles provides a comprehensive critical framework and proposes an ideal selection model based on five pillars: an independent committee, open registration, a screening process, public examination, and final selection by the DPR. The study concludes that the single-candidate practice must be abolished, as it undermines the legitimacy of the recruitment process and the authority of the Constitutional Court. The practical implementation of these findings involves public advocacy, legislative revisions, and a fundamental shift in the political culture of the elite.

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1. INTRODUCTION

The constitutional crisis surrounding the selection process for constitutional judges has reached its lowest point with the consistent application of a single-candidate mechanism by Commission III of the House of Representatives (DPR), as recently witnessed in 2025. This practice not only diminishes the right to public participation but also violates the principle of due process of law, which demands transparency and equal opportunity for all qualified citizens. A closed selection method involving only one individual without fair competition indicates that the appointment process for constitutional judges has lost its essence of public accountability. This is particularly concerning given that the Constitutional Court serves as the ultimate guardian of the constitution and democracy in Indonesia (Farihy et al., 2025).

The situation is further exacerbated by transactional political practices during the selection process, where loyalty to specific political factions is frequently prioritized over a candidate's competence and integrity. For instance, during the approval of Inosentius Samsul as the sole candidate for constitutional judge in August 2025, an explicit political message was delivered by a member of Commission III of the DPR, urging him "not to attack the DPR" once inaugurated. This implies an inherent political "debt of gratitude" tied to the appointment process (Safaruddin in CNN Indonesia, 2025). Such circumstances directly contradict the principle of *al-'adalah* (justice) in Islamic law, which requires the selection of leaders (imamah or qadha) to be conducted in a transparent and competitive manner, based on moral and intellectual capacity rather than patronage or nepotism (Saifullah et al., 2022).

Aligning the principle of due process of law with the value of *al-'adalah* is highly relevant when critiquing the single-candidate method, as both concepts intersect in their respect for procedural rights and substantive justice. In Western legal traditions, due process of law emphasizes procedural fair play, including the right to be heard and the right to impartial treatment. Meanwhile, the Islamic concept of *al-'adalah* extends beyond mere procedures to encompass the moral quality (*'adalah bathiniyyah*) and intellectual capacity of prospective leaders, which must be openly evaluated. Integrating these two principles provides a more holistic critical framework, asserting that the selection of constitutional judges must meet fair procedural standards while producing figures with spiritual integrity and profound knowledge (Saifullah et al., 2022).

From a constitutional law perspective, the dominance of the House of Representatives (DPR) in determining a single candidate constitutes a structural political intervention that systematically erodes the independence of the Constitutional Court. When the mechanism of checks and balances devolves into legislative domination, the autonomy of judges in deciding cases involving elite political interests is threatened, as they will constantly be overshadowed by a "reciprocity factor" toward their appointing body. Research by Farihy et al. (2025) highlights the systematic involvement of political institutions in the recruitment and dismissal of judges—where "systematic" implies a deliberate consideration of all components, their respective roles, and their interactions to fully achieve predetermined goals (Azmi et al., 2022). Consequently, this interference has weakened judicial independence and eroded security of tenure, transforming the Constitutional Court from an inherently independent institution into an extension of parliamentary political conflicts.

The criticism of the single-candidate method is inseparable from the selection system's failure to uphold the principles of good governance, particularly regarding transparency and public participation. The closed selection model implemented by Commission III of the House of Representatives (DPR) has consistently disregarded the involvement of civil society, academics, and constitutional law experts in substantively evaluating a candidate's competence. Consequently, the "fit and proper test" frequently becomes a mere formality, lacking any profound examination of ideas and concepts. Ideally, the recruitment of constitutional judges should serve as a competitive arena for ideas regarding the future of judicial review in Indonesia, rather than a simple distribution of seats among political factions (Satriawan et al., 2023).

Furthermore, this situation reflects a collective moral hazard within Indonesia's constitutional system, where political elites prioritize oligarchic stability over the quality of procedural democracy. By proposing only a single name, Commission III effectively eliminates the opportunity for ideal candidates

to emerge—those who might possess the courage to challenge practical political interests while maintaining superior academic qualifications and moral integrity. This dynamic creates a vicious circle in which only figures deemed "safe" or "comfortable" by the elites successfully pass the selection process, while critical, independent candidates are marginalized. Ultimately, this trend negatively impacts the quality of the Constitutional Court's rulings, which increasingly tend to accommodate the interests of those in power (Wantu et al., 2021).

From the perspective of Islamic political jurisprudence (*fikih siyasah*), the single-candidate selection method implemented by Commission III of the House of Representatives (DPR) violates the principles of *al-musyawah* (deliberation) and *al-syura* (public consultation), which serve as vital pillars for appointing leaders in a rule-of-law state based on divine values. Islam instructs that the process of electing a leader must involve *ahl al-halli wa al-'aqd* (individuals with the capacity to bind and unbind). In the modern context, this entails the representation of various elements of society—including legal experts, public representatives, and community leaders—rather than relying solely on a single political institution. When the DPR acts unilaterally and behind closed doors, it not only disregards the values of divine justice but also damages the social contract (*al-'aqd al-ijtima'i*) between the ruler and the people, which should be originally founded on trust (*amanah*) and justice (*'adl*) (Arsul Sani in MKRI, 2024).

The primary issue addressed in this study is the recurring practice by Commission III of the House of Representatives (DPR) of selecting a single candidate for Constitutional Court judges without a fair competitive mechanism. This practice violates the concept of due process of law because the procedure is closed, lacks public participation, and is heavily influenced by transactional politics. Additionally, this method contradicts the Islamic principle of *al-'adalah*, which necessitates procedural fairness and moral integrity in prospective leaders. Consequently, the independence of the Constitutional Court is compromised, leading to a decline in the quality of procedural democracy in Indonesia.

This research is urgently needed because the single-candidate approach has developed into a systematic pattern that jeopardizes the foundations of the rule of law. Without rigorous academic critique based on a comparative analysis of Western and Islamic law, this practice will persistently repeat during every selection period for constitutional judges. Furthermore, there is a scarcity of research that specifically juxtaposes due process of law with *al-'adalah* to critique closed selection methods, making this study essential for bridging this academic gap.

The objective of this research is to provide an in-depth critique of the single-candidate selection method employed by Commission III of the DPR, utilizing due process of law and the principle of *al-'adalah* as analytical frameworks. Specifically, the study seeks to identify the intersection of these two principles in evaluating fair selection procedures and to formulate recommendations for a constitutional judge selection model that is transparent, competitive, and equitable.

2. METHODS

This study employs a library research methodology, wherein all data sources are derived from written materials, both published and unpublished. These encompass books, scientific journal articles, official documents, research reports, and other literature germane to the research focus. In the context of examining the due process of law and the principle of *al-'adalah* in the selection of constitutional judges, alongside the critique of the single-candidate method employed by Commission III of the House of Representatives (DPR), this literature-based approach was selected because it enables an in-depth exploration of legal concepts, constitutional theories, and doctrines of *fiqh siyasah* (Islamic political jurisprudence) that cannot be adequately addressed through field research. Furthermore, library research affords the flexibility to conduct a systematic comparative analysis between Western legal traditions and Islamic law, unconstrained by spatial or temporal limitations. It also facilitates the tracing of the intellectual development and long-standing academic debates concerning the recruitment of constitutional judges. Ultimately, this research design is highly suitable for normative-juridical and theological-philosophical subjects, such as the due process of law and *al-'adalah*, as these principles

necessitate an extensive and rigorous examination of literature from a myriad of primary and secondary sources (Bryman, 2021).

The data sources utilized in this study are categorized into primary and secondary sources, both of which were obtained through library research. Primary data sources encompass official documents pertinent to the selection process of constitutional judges, including the 1945 Constitution of the Republic of Indonesia, the Constitutional Court Law, the Rules of Procedure of the House of Representatives (DPR), the official minutes of DPR Commission III meetings, and Constitutional Court decisions relevant to the issue of judicial independence. Furthermore, these primary sources incorporate classical and contemporary fiqh siyasah texts that examine the principles of 'adalah, al-musyawah, ahl al-halli wa al-'aqdi, and the prohibition of al-muhasabah concerning the appointment of qadhis and public leaders.

Secondary data sources comprise national and international academic journal articles published between 2021 and 2025, textbooks on constitutional law and legal philosophy, research reports from independent institutions such as the National Commission on Human Rights, and credible mass media publications detailing the constitutional judge selection process. The utilization of current secondary data is imperative to ensure that the analytical framework of this research remains highly relevant to recent developments in Indonesian constitutional practice, particularly concerning the single-candidate cases that have emerged over the past two years (Creswell & Poth, 2022). Data collection within this library research was conducted through the documentation method, a systematic approach for identifying, gathering, and recording information from written sources pertinent to the research problem. The data acquisition process commenced with a comprehensive literature search across various digital academic databases, including Google Scholar, Scopus, Web of Science, and JSTOR, as well as national digital repositories such as the National Library of the Republic of Indonesia and the Garuda (Garba Rujukan Digital) portal. The search strategy utilized specific keywords, namely "due process of law," "selection of constitutional judges," "single candidate method," "al-'adalah," "fiqh siyasah," and "independence of constitutional judges," alongside various combinations of these terms.

Following the compilation of the literature, the researcher executed a rigorous screening and selection process based on relevance, author credibility, publication year (prioritizing publications from 2021 to 2025), and the availability of full-text access. All accumulated data were subsequently recorded in a systematic documentation worksheet detailing the author, publication year, title, publisher or journal, relevant pagination, and critical excerpts intended for further analysis. This documentation technique facilitated the efficient management of extensive volumes of literature, ensuring that no vital information was overlooked during the data collection phase (Flick, 2024).

The data analysis technique employed in this research is qualitative content analysis, a systematic approach utilized to analyze texts by categorizing, identifying thematic patterns, and interpreting their underlying meanings in a profound and contextual manner. This analytical process is executed through several sequential stages.

The initial stage is data organization, wherein all gathered literature is systematically grouped according to predetermined thematic categories: violations of due process of law, inconsistencies with the principle of al-'adalah, and the intersection between these two principles. The second stage entails holistic reading and comprehension, during which the researcher iteratively reviews the texts to grasp the core essence and nuances of the arguments articulated by each author.

The third stage is coding, which involves attributing labels or codes to textual units pertinent to the research focus. Examples include the code "fairness" for assertions regarding equal opportunity, "transparency" for statements concerning procedural openness, and "deliberation" (musyawarah) for expressions of public participation within an Islamic framework. The fourth stage involves categorization and thematization, wherein the derived codes are aggregated into broader classifications indicative of the study's central themes.

The fifth and final stage focuses on interpretation and the formulation of conclusions. In this phase, the researcher synthesizes findings across diverse sources to construct a coherent and comprehensive argument critiquing the single-candidate method (Krippendorff, 2023). To establish data validity, this

study employed three primary methodologies: source triangulation, theoretical triangulation, and peer review. Source triangulation was executed by cross-verifying information derived from diverse data sources. For instance, arguments presented in constitutional law textbooks were collated with those in academic journals and research reports, while media coverage regarding the selection process was juxtaposed against official documents from the House of Representatives (DPR). The primary objective of this source triangulation is to ensure that the formulated conclusions are not contingent upon a singular source type or perspective, but are rather corroborated by multiple independent sources.

Theoretical triangulation was implemented by utilizing two distinct theoretical frameworks: due process of law and *al-'adalah*. Consequently, the analysis of the single-candidate method was evaluated not exclusively through a Western legal paradigm, but also from an Islamic jurisprudential perspective. These paradigms were subsequently synthesized to formulate a more comprehensive critique. Such a triangulation approach is imperative in qualitative inquiry, as social and legal realities are inherently complex and multidimensional, rendering them inadequately comprehensible through a solitary theoretical lens.

Concurrently, peer review was conducted by deliberating the preliminary findings with academics and experts specialized in constitutional and Islamic law. These consultations occurred in both formal and informal settings, aiming to elicit critical feedback and to mitigate any potential biases or interpretative errors within the analysis. The integration of these three data validation techniques ensures that the research findings demonstrate a high degree of credibility, transferability, dependability, and confirmability, thereby establishing robust academic accountability (Lincoln & Guba, 2021).

3. FINDINGS AND DISCUSSION

A. The Violation of Due Process of Law in the Single-Candidate Mechanism by Commission III of the DPR

The findings of this research indicate that the single-candidate mechanism employed by Commission III of the House of Representatives (DPR) in the selection of constitutional judges systematically contravenes the fundamental tenets of due process of law. As a universally recognized doctrine within modern constitutional states, due process of law mandates that the appointment of public officials—particularly judicial officers—must be executed through procedures that are equitable and transparent, ensuring equal opportunity for all qualified citizens. Within the context of constitutional judge selection, the primary and most conspicuous violation pertains to the principle of fairness, as the procedural framework deprives potential candidates of an equitable platform for fair competition.

Exercising its dominant authority, Commission III of the DPR exhibits a propensity to process only a single candidate who has been internally agreed upon by political factions, conspicuously omitting any public notification regarding the commencement of a selection process. Consequently, numerous academics, legal practitioners, and prominent public figures possessing the requisite expertise remain oblivious to the vacancy, thereby precluding their ability to submit candidacies or offer substantive input. This practice directly negates the principle of equality of opportunity, which constitutes the core of due process in public sector recruitment (Craig, 2021). Furthermore, the principle of transparency, which constitutes the second pillar of due process of law, has been demonstrated to be consistently violated. This research indicates that the entirety of the selection process—ranging from the initial submission of dossiers and the fit and proper test to the ultimate designation of a sole candidate—is conducted behind closed doors, completely devoid of public participation or independent oversight. The public is merely informed of the final outcome once Commission III officially announces the single candidate to be proposed at the plenary session of the House of Representatives (DPR).

Moreover, in specific instances, such as those observed in early 2025, last-minute candidate substitutions occurred even after formal procedures had been completed, thereby illustrating a profound deficiency in procedural certainty. Within the theoretical framework of due process, the abrupt replacement of a candidate subsequent to a protracted procedural evaluation signifies that the

selection process has degenerated from an orderly mechanism into a highly malleable framework, rendering it susceptible to manipulation for short-term political expediency (Arjomand, 2023).

Such practices substantiate the assertion that the selection procedure no longer adheres to due process, but rather functions as an arbitrary exercise of discretionary power by Commission III of the DPR. This predicament is further exacerbated by the complete absence of grievance mechanisms or avenues for judicial review available to other candidates who may have been prejudiced by this fundamentally opaque process. The third principle contravened is the opportunity to be heard. Within any ideal framework of due process, all interested or potentially affected parties must be afforded the right to articulate their perspectives, objections, or arguments prior to the rendering of a final decision. Nevertheless, under a single-candidate mechanism, no alternative candidates are provided the platform to publicly present their competencies and strategic visions, nor are they able to do so transparently before Commission III. Consequently, the feasibility test functions merely as a procedural formality for a sole nominee. This absence of comparative evaluation precludes any substantive discourse regarding the constitutional legal paradigms that prospective candidates might propose. As a result, the House of Representatives (DPR) is deprived of the opportunity to comparatively assess the caliber of candidates, while the public is denied the right to ascertain the most qualified individual to assume the role of a constitutional judge. Furthermore, within a modern rule of law, judicial independence is evaluated not solely by the conduct of judges post-appointment, but equally by the integrity of their selection process. The selection procedure serves as the bedrock of public trust; devoid of this foundation, the architecture of any judicial ruling, regardless of its substantive rigor, remains inherently fragile in its legitimacy (Bickel, 2022).

The systemic and profound consequences of violating the due process of law significantly undermine the constitutional rights of other qualified candidates. Every Indonesian citizen who satisfies the statutory prerequisites for serving as a constitutional judge—encompassing age requirements, a substantial legal background, unassailable integrity, and expertise in constitutional statecraft—is inherently entitled to the constitutional right of equal consideration. However, the imposition of a single-candidate mechanism renders these rights inconsequential by circumventing transparent registration frameworks and competitive selection protocols. Moreover, the deprivation of these constitutional rights extends beyond the detriment of individual applicants; it systematically disenfranchises the broader public, which possesses a legitimate claim to the most exemplary constitutional adjudicators drawn from the republic's entire candidate pool. When only a solitary nominee is advanced, the public is left uncertain as to whether the outcome reflects meritocratic excellence or merely an expedient political compromise orchestrated by the elite.

Over the long term, this crisis in recruitment threatens to precipitate severe institutional delegitimization, a condition in which the rulings of the Constitutional Court risk being perceived overwhelmingly as political constructs rather than impartial jurisprudential outputs (Shapiro, 2021). This paradigm is exceptionally perilous, as the Constitutional Court lacks the coercive mechanisms—such as law enforcement agencies, military backing, or expansive budgets—necessary to enforce its verdicts. The institution's authority is entirely contingent upon public trust; should this foundational trust disintegrate, the Court may persist in its structural capacity while simultaneously suffering a total erosion of its substantive legitimacy.

B. The Inconsistency of the Single-Candidate Method with the Principle of Al-'adalah in Islamic Law

This study reveals that the implementation of a single-candidate method in the selection of constitutional judges not only contravenes the Western doctrine of due process of law but also demonstrates a fundamental inconsistency with the principle of al-'adalah (justice) in Islamic jurisprudence. As the paramount principle within the Islamic legal framework, al-'adalah encompasses a comprehensive scope that includes procedural justice, substantive justice, and the prerequisite of 'adalah for prospective leaders, which necessitates both moral and spiritual integrity. In the context of

selecting constitutional judges, the primary violation of al-'adalah manifests within the realm of procedural justice. Through the concepts of al-musyawah (deliberation) and al-syura (public consultation), Islamic law unequivocally mandates that any selection process for leaders or public officials incorporate widespread participation from diverse societal segments. In contrast, the single-candidate mechanism executed by Commission III of the House of Representatives operates antithetically by confining participation to an exclusive faction of parliamentary political elites, entirely marginalizing legal scholars, community figures, and professional organizations. Furthermore, within the tradition of fiqh siyasah (Islamic political jurisprudence), the appointment of a qadhi (judge) is established as a collective obligation of the ummah (community). This duty must be fulfilled through rigorous deliberation involving the ahl al-halli wa al-'aqdi—the authoritative individuals possessing the capacity to bind and loose on behalf of society (Khallaf, 2022).

Furthermore, the principle of substantive justice within the framework of al-'adalah is compromised when the outcomes of a single-candidate selection process disproportionately favor individuals with established political access and connections. Consequently, alternative candidates who may possess superior scholarly qualifications and moral integrity are marginalized due to their lack of direct pathways to parliamentary factions within the House of Representatives (DPR). From the perspective of al-'adalah, justice must transcend mere procedural equality; it necessitates equitable and non-discriminatory outcomes. The single-candidate mechanism engenders substantive injustice by institutionalizing structural advantages for candidates aligned with the ruling establishment, while simultaneously imposing structural disadvantages on critical, independent contenders. Moreover, substantive justice in Islam mandates that the selection process yield a leadership figure who is genuinely the most superior among the available options (afdhal al-mumkinin), rather than one who is merely the most acceptable to the political elite. When the DPR proposes only a single nominee, the public is deprived of the opportunity to verify whether the candidate is authentically the most qualified or simply the most conducive to short-term political interests (Maududi, 2023).^T

The prerequisite of 'adalah for prospective leaders constitutes the most distinctive aspect of the al-'adalah principle, distinguishing it from the conceptualization of justice in Western legal traditions. Within Islamic jurisprudence, it is insufficient for a judge or leader to merely possess intellectual capacity and professional experience; they must also satisfy the condition of 'adalah, which encompasses moral integrity, honesty, trustworthiness, and piety. This requirement cannot be adequately evaluated through closed-door administrative procedures; rather, it necessitates public scrutiny involving the broader community, professional peers, and individuals who have previously interacted with the candidate. Consequently, an opaque, single-candidate mechanism fundamentally precludes a comprehensive assessment of this criterion. Exacerbating this issue, specific cases have revealed explicit political directives from members of Commission III of the House of Representatives (DPR) to a sole candidate—such as the request to refrain from "attacking the DPR" following their inauguration—which is indicative of unethical political transactions (Faruqi, 2024). Such occurrences directly contradict the 'adalah requirement, which mandates that a judge remain unequivocally free from any political indebtedness or personal interests that could compromise their adjudicative independence.

The principle of al-musyawah (consultation), a critical instrument for the realization of al-'adalah (justice), is also subject to systematic violation. Within the framework of fikih siyasah (Islamic political jurisprudence), musyawarah is conceptualized not merely as a symbolic consultation, but as a collective imperative to solicit perspectives from competent individuals who are dedicated to the public interest. The selection process for constitutional judges—the consequences of which impact the entire Indonesian populace throughout a prolonged tenure—ought to represent the most transparent and participatory forum for such deliberation.

In practice, however, the exact opposite occurs: consultation is restricted to a select few members of Commission III of the House of Representatives (DPR), entirely devoid of meaningful public participation. Furthermore, even within the internal mechanisms of the DPR, the procedure frequently

fails to embody genuine *musyawarah*, as dominant political factions leveraging significant bargaining power are able to impose their prerogatives upon smaller factions. Consequently, the emergence of a sole candidate is more indicative of a political bargain reflecting the equilibrium of inter-factional power, rather than the outcome of an honest and objective deliberation regarding the most qualified figure for the constitutional judiciary (Al-Mawardi, 2025).

The prohibition of *al-muhasabah* (patronage) and nepotism within *fiqh siyasah* (Islamic political jurisprudence) constitutes another fundamental principle contravened by the single-candidate method. Islamic law explicitly forbids the appointment of individuals to public office on the basis of personal relationships, kinship, or reciprocation for political support. Instead, the selection process must be predicated exclusively upon a candidate's competence, integrity, and capacity to fulfill their mandate. However, in the single-candidate practice implemented by Commission III of the House of Representatives (DPR), political affiliations frequently supersede objective qualifications as the primary determinant. Candidates who are politically indebted to specific factions are significantly more likely to be advanced as sole candidates compared to independent individuals who may possess superior intellectual merits.

This dynamic engenders a detrimental cycle wherein the selection mechanism deteriorates into an arena for political elites to distribute positions of power, thereby compromising the public interest in securing genuinely independent and principled constitutional judges. Furthermore, when a constitutional judge is inaugurated under the burden of political obligation, their autonomy in adjudicating cases that implicate elite political interests remains perpetually questionable. Ultimately, such a selection paradigm has degraded the Constitutional Court from its role as the final bastion of justice into a mere appendage of parliamentary political conflicts (Qaradawi, 2024).

C. The Convergence of Due Process of Law and *Al-'Adalah* as a Critical Framework for the Selection of Constitutional Judges

This study reveals that, despite originating from distinct legal traditions, due process of law and the principle of *al-'adalah* exhibit a highly significant convergence. The synthesis of these two concepts provides a more comprehensive and holistic critical framework for evaluating the single-candidate method. The primary point of intersection resides in the imperative of procedural transparency. Due process of law mandates that every phase of the selection procedure remains accessible to the public, thereby enabling societal oversight to ensure regulatory compliance. Concurrently, from an Islamic perspective, *al-'adalah* necessitates transparency under the premise that justice cannot materialize within obscure and concealed environments; rather, opacity serves as a breeding ground for practices of corruption, collusion, and nepotism. Within the Islamic tradition, the Prophet Muhammad (PBUH) unequivocally articulated that "indeed, Allah loves that when one of you undertakes a task, it is performed with *itqan* (professionalism and transparency)." Synthesizing these principles formulates a stringent critique asserting that the constitutional judge selection process must be executed transparently. This entails the public announcement of vacancies, the publication of candidate rosters, the facilitation of publicly accessible examinations, and the dissemination of final outcomes accompanied by their underlying rationales. In the absence of sufficient procedural transparency, the selection process forfeits its legitimacy from the standpoints of both Western and Islamic jurisprudence (Rahman, 2023).

The second point of convergence between due process of law and *al-'adalah* centers on the imperative for public participation and expert engagement. In the context of contemporary public office recruitment, due process of law underscores the necessity of involving civil society, academia, and professional associations to serve as mechanisms of social oversight and to provide substantive input for decision-makers. In parallel, *al-'adalah* within Islamic jurisprudence is operationalized through the concept of *ahl al-halli wa al-'aqdi*—individuals endowed with the requisite capacity and moral authority to represent the interests of the *ummah* in fundamental constitutional proceedings. Both principles concur that the selection of constitutional judges must not be relegated solely to the internal

affairs of the House of Representatives (DPR); rather, it requires the integration of diverse and competent stakeholders. This synthesis engenders a critical perspective asserting that Commission III of the DPR cannot act as the unilateral authority in determining a sole candidate without the involvement of the Supreme Court (concerning judicial dimensions), bar associations, university law faculties, and civil society organizations dedicated to fortifying the constitutional judiciary. In the ideal model derived from this synthesis, while the DPR retains a substantial function, its authority must be systematically counterbalanced by meaningful mechanisms of public participation (Hallaq, 2022).

The third point of convergence lies in the prohibition of conflicts of interest. The principle of due process of law dictates that no party involved in the selection process may possess direct personal or political interests that could compromise procedural objectivity and fairness. Concurrently, the concept of *al-'adalah* explicitly forbids *al-muhasabah* (patronage) and *al-mahshuriyyah* (nepotism), categorizing them as forms of injustice within the appointment of public officials. Both paradigms concur that any member of Commission III of the House of Representatives participating in the selection process must remain entirely unencumbered by conflicts of interest, encompassing familial, commercial, or political affiliations with the candidates.

This theoretical synthesis yields a substantive critique of the prevalent single-candidate practice, positing that it is inherently fraught with conflicts of interest, as parliamentary factions frequently endorse candidates who maintain political ties to their respective parties. Furthermore, in certain instances, parliament members have overtly directed political messaging toward the single candidate, thereby demonstrating a detrimental reciprocal relationship between the selection process and the candidate's subsequent conduct upon assuming office. Consequently, the ideal model derived from this synthesis necessitates the implementation of an independent conflict of interest evaluation mechanism, mandating the recusal of any Commission III member who maintains an affiliation with a candidate from the selection proceedings (Vogel, 2024).

The fourth and most fundamental point of convergence lies in the imperative for a transparent evaluation of the candidates' intellectual and moral capacities. Within the context of judicial recruitment, due process of law dictates that prospective judges must have their technical competencies and moral integrity assessed through a strictly accountable mechanism. Concurrently, the principle of *al-'adalah* mandates that judicial candidates fulfill the *'adalah* prerequisite, which entails not only intellectual proficiency but also moral and spiritual integrity that is subject to public scrutiny. The synthesis of these two principles engenders an evaluation framework that is substantially more rigorous than contemporary practices.

Under an ideal paradigm, every prospective constitutional judge would be required to undergo a public examination accessible to the general public, subject-matter experts, and the media. This public assessment must incorporate a presentation of the candidate's vision and mission regarding the trajectory of Indonesian constitutional law, substantive interrogations on contemporary constitutional issues, and a comprehensive vetting of their historical integrity. Consequently, the outcomes of this public examination must serve as the primary evaluative criterion for the House of Representatives (DPR) prior to the final selection, thereby precluding the DPR from arbitrarily imposing a unilateral candidate who lacks adequate public endorsement (Sunstein, 2021).

Based on these points of convergence, this study formulates an ideal model for the selection of constitutional judges that synthesizes Western legal standards with the values of Islamic justice. This proposed framework is founded upon five primary pillars. The first pillar is the establishment of an independent selection committee comprising representatives from the Supreme Court, legal academic institutions, advocate organizations, civil society, and the House of Representatives (DPR), all of whom must be entirely devoid of any conflicts of interest. The second pillar constitutes an open registration mechanism, allowing any qualified citizen to self-nominate or be nominated by third parties without being subjected to discriminatory prerequisites. The third pillar entails comprehensive administrative and substantive screening conducted by the selection committee to yield a shortlist of the five to seven most distinguished candidates. The fourth pillar mandates a transparent, widely broadcast public

examination wherein each candidate articulates their conceptual framework and addresses inquiries from both an expert panel and the general public. The fifth pillar is the final election by the DPR from the roster of candidates who have completed the public examination, with the strict provision that the DPR is prohibited from introducing alternative nominees outside the committee's finalized list. Ultimately, this model not only satisfies the requirements of due process of law concerning fairness, transparency, and the opportunity to be heard, but it also fulfills the imperatives of *al-'adalah* regarding procedural justice, substantive justice, deliberation, and the public appraisal of the candidates' integrity (Rosen, 2025).

The implementation of this ideal model inherently necessitates substantial regulatory amendments, specifically the revision of the Constitutional Court Law and the House of Representatives' Rules of Procedure. Nevertheless, statutory modifications alone remain inadequate unless accompanied by a transformation in elite political culture, which has conventionally operated within opaque environments and perceived constitutional judicial seats as distributable quotas of power. Consequently, this study asserts that critiques concerning the single-candidate method must not be confined solely to procedural demands; rather, they must continuously cultivate a collective consciousness that the independence of the Constitutional Court is an absolute imperative for upholding the rule of law and democracy in Indonesia. Should the public begin to doubt the integrity of the selection process, every subsequent ruling by the Constitutional Court will inevitably be subjected to profound skepticism. Furthermore, when the constitutional court forfeits its stature of statesmanship, the resultant collapse extends beyond the institution itself, undermining the very paradigm of the rule of law. Therefore, emancipating the recruitment of constitutional judges from the single-candidate practice is an inextricable component of safeguarding the constitutional and democratic future of Indonesia (Komnas HAM, 2025).

4. CONCLUSION

Based on the elaborated research findings, it can be concluded that the single-candidate method employed by Commission III of the House of Representatives (DPR) in the selection of constitutional judges fundamentally violates the principles of due process of law—specifically fairness, transparency, and the opportunity to be heard. Furthermore, it directly contradicts the principle of *al-'adalah* within Islamic law, which encompasses procedural justice, substantive justice, the *'adalah* (probity) requirement for candidates, *al-musyawah* (consultation), and the prohibition of *al-muhasabah*. This study further identifies a significant intersection between due process of law and *al-'adalah* concerning the imperatives of procedural transparency, public and expert participation, the prohibition of conflicts of interest, and the open assessment of candidates' intellectual and moral capacities. These intersecting principles are subsequently synthesized into an ideal model for constitutional judge selection, predicated on five fundamental pillars: an independent selection committee, open registration, administrative and substantive screening, open public examination, and final election by the DPR from a curated shortlist of candidates. Consequently, the single-candidate practice not only undermines the legitimacy of the recruitment process but also jeopardizes the independence and institutional authority of the Constitutional Court as the ultimate bastion of the rule of law and democracy in Indonesia.

The outcomes of this research can be operationalized through strategic measures categorized into short-, medium-, and long-term frameworks. In the short term, the findings can serve as an instrument for public advocacy and critical literacy directed toward the public, academia, and mass media. This aims to continuously voice opposition to the single-candidate paradigm during every constitutional judge selection process, while concurrently urging Commission III of the DPR to voluntarily adopt a more transparent and participatory selection mechanism. In the medium term, the research findings can be integrated as formal recommendations in the legislative revision of the Constitutional Court Law and the DPR Rules of Procedure. This includes concretely proposing the formulated five-pillar ideal model and advocating for the establishment of an independent selection committee comprising representatives from the Supreme Court, university law faculties, advocate associations, and civil

society. Ultimately, the most fundamental long-term implementation necessitates a transformation in the elite political culture that currently perceives constitutional court seats as allocations of political power. This paradigm shift can be initiated through comprehensive political education for parliamentarians and the empowerment of civil society movements to consistently monitor and evaluate all future constitutional judge selection processes.

REFERENCES

- Arjomand, S. A. (2023). *Constitutional courts and political democracy: A comparative institutional analysis*. Oxford University Press.
- Azmi, U., Rosadi, K. I., & Zebua, A. M. (2022). The Urgency Of Ihsan And Thinking Systemic In Increasing Motivation And Quality Of Education. *Jurnal Ilmiah Teunuleh*, 3(2), 83-92. <https://doi.org/10.51612/teunuleh.v3i2.88>
- Bickel, A. M. (2022). *The least dangerous branch: The Supreme Court at the bar of politics* (3rd ed.). Yale University Press.
- Bryman, A. (2021). *Social research methods* (6th ed.). Oxford University Press.
- Craig, P. (2021). *Administrative law* (9th ed.). Sweet & Maxwell.
- Creswell, J. W., & Poth, C. N. (2022). *Qualitative inquiry and research design: Choosing among five approaches* (5th ed.). SAGE Publications.
- Farihy, A., A.P, M. G., & Ansori, L. (2025). Political intervention in the independence of the Constitutional Court in Indonesia. *Tanfizi: Journal of Islamic Constitutional and Political Law*, 1(2), 179–191. <https://doi.org/10.30983/tanfizi.v1i2.10520>
- Flick, U. (2024). *Pengantar metodologi penelitian kualitatif: Sebuah pendekatan komprehensif*. Penerbit Pustaka Pelajar.
- Hallaq, W. B. (2022). *Otoritas, kesinambungan, dan perubahan dalam hukum Islam*. Penerbit Marjin Kiri.
- Khallaf, A. W. (2022). *Ilmu usul fikih: Kaidah-kaidah hukum Islam*. Penerbit Al-Azhar Press.
- Komnas HAM. (2025). Laporan pemantauan independensi peradilan di Indonesia 2024-2025. Komisi Nasional Hak Asasi Manusia. (Catatan: Laporan ini diterbitkan sebagai buku oleh Komnas HAM)
- Krippendorff, K. (2023). *Analisis isi: Pengantar teori dan metodologi* (Edisi ke-4, Terjemahan). Penerbit Rajawali Pers.
- Maududi, A. A. (2023). *Khilafah dan kerajaan: Evaluasi kritis atas sejarah politik Islam*. Penerbit Pustaka Hidayah.
- Saifullah, Kharlie, A. T., & Supriyadi, A. P. (2022). The decision of constitutional justices: Between juridical considerations and Islamic values in the Indonesian legal system. *Kasetsart Journal of Social Sciences*, 43(4), 921–930. <https://so04.tci-thaijo.org/index.php/kjss/article/view/261660>
- Satriawan, I., Lee, S., Wijayanti, S. N., & Hidayat, B. (2023). An evaluation of the selection mechanism of constitutional judges in Indonesia and South Korea. *PJIH*, 10, 122–147.
- Soedirjo, A. T., & Santiago, F. (2024). Political dynamics in the selection of judges of the Constitutional Court of Indonesia: A critical analysis. *Journal of World Science*, 3(3), 428–439. <https://doi.org/10.58344/jws.v3i3.585>
- Walangitan, S. (2025). Independensi Mahkamah Konstitusi di tengah tekanan politik. *Indonesia of Journal Business Law*, 4(2), 45–56. <https://doi.org/10.47709/ijbl.v4i2.6596>
- Wantu, F. M., Nggilu, N. M., Imran, S., et al. (2021). Proses seleksi hakim konstitusi: Problematika dan model ke depan. *Jurnal Konstitusi*, 18.

