

LEGAL CERTAINTY RE-REFLECTION IN THE ISSUE OF AD HOC JUDGE'S POSITION AS EXECUTOR OF JUDICIAL POWER OF CRIMINAL CORRUPTION JUSTICE SYSTEM IN INDONESIA

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Abstract

The people's need for just, clean judicature that is capable of following the people's social dynamics is the momentum of the emergence of ad hoc judge as a state auxiliary organ in the body of judicative institution. In fact, ad hoc judge's position brings substance issue in the form of ad hoc judge's position that is not a state official, with implication that ad hoc judge is unauthorized to be judge participating and influencing judicial decree, especially in criminal corruption judicature. The ambiguity in ad hoc judge's position also increases with ad hoc judge individual's involvement in corruption case circle. This article, with non-doctrinal method, attempts to describe and analyze ad hoc judge's position in criminal corruption judicature recently. Based on this article's discussion, it is apparent that ad hoc judge by legislation cannot be deemed executor of judicative power. Ad hoc judge's lack of power as executor of judicative power is also found in Article 122 item e Law Number 5 of 2014 on State Civil Apparatus expressly stating that ad hoc judge is not state official. This condition shows that ad hoc judge cannot be categorized as a party in line with career judge or as acting official of state power, especially that related to judicative power in judicial environment.

Keywords: Ad Hoc, Judge, Judicature, Corruption.

1. Introduction

Corruption is a criminal act with big impact on the damaged life of the people and of the nation. Indonesia Corruption Watch as reported by electronic daily Tempo explained that in 2021 there was state loss of 61 trillion Rupiahs due to criminal corruption. This dilemma requires state's need for prime and optimal law enforcement in corruption eradication (Wibowo, 2022). Judicial power in its development has an important position as the consequence of Indonesia as a constitutional state. Indonesia's principle as a constitutional state requires realization of legal sovereignty in every dimension of the life of the people and of the nation. The efforts to realize legal sovereignty in Indonesia are optimized, among others, through judicial power (Muhammad, 2018). The various views can constitutionally be observed in Article 24 the 1945 Constitution, the importance of judicial position can also be specifically found in Article 1 paragraph (1) Law Number 48 of 2009 on Judicial Power.

The importance of judicial position as the motor in the implementation of legal sovereignty in Indonesia is not in line with the level of public trust in judiciary. The Judicial Commission reported that in the first quarter of 2021, there were 494 public reports and 359 carbon copies related to violation of Judicial Code of Ethics and Code of Conduct (KEPPH). By type of cases, in regard to the issues in civil case domain there were 243 reports and in criminal case domain there were 121 reports (Yudisial, 2021). The alternative to respond to the issue of public distrust in judicial institution, especially in criminal corruption issue, is the existence of ad hoc judge in criminal corruption justice system. The existence of ad hoc judge in Indonesia, according to Luhut M. P. Pangaribuan, is caused by the need factor related to expertise and effectiveness in case examination in the court. The existence of ad hoc judge in its

development is the effort to realize clean and transparent justice system through community element's involvement in the judicature body in Indonesia, and to reduce complexity in legal issue in judicature practice in Indonesia (Nurdin, 2019). Based on the explanation above, it is quite apparent that the initial objective of ad hoc judge formation is part of public contribution to enforcing just law in cases that require special expertise. The need for ad hoc judge as special judge is the evidence of legal issue development in current globalization era that gets more complex. Complexity in law enforcement in the globalization era as the impact of information flow openness rate that changes the community's legal culture in various legal fields recently (Tripa, 2019). Legal issue proliferation in the community requires judicature institution to have judicial qualification with special ability, expected to solve various, getting more complex legal issues in the community. Ad hoc judge is one alternative to face the complexity of legal issues in the community.

The importance of existence of ad hoc judge in its development is not in line with the clarity of ad hoc judge's position in the Indonesian legal system. This occurs as the impact of the Indonesian legal system that has not clearly set ad hoc judge's position with regard to their authority and position as state official who can implement state's function. State's function is actually operated through state administration, including in judicative function domain. Operation of state administration requires existence of state official. This expressly shows that state official is state's instrumentality in operating its functions, including judicative function. The existence of ad hoc judge, that is not state official, makes ad hoc judge not have the authority to operate state's function in judicative matters. Ad hoc judge's position, that is not official and does not have authority in operating state's function in judicative matters, that is not clearly understood, has caused the position of ad hoc judge's judgment equalized to career judge. This causes a brief against legal certainty on ad hoc judge's judgment all this time.

2. Methods

The method used in this paper was non-doctrinal method. Non-doctrinal research, also called socio-legal research, is research that views law in empirical as well as juridical contexts (Salim Ibrahim Ali, 2017).

3. Discussion And Result

3.1 Juridical Brief of Ad Hoc Judge's Judgment in Criminal Corruption Judicature

Bagir Manan stated that state agency is divided into: State instrumentalities, which are state agencies that operate state function directly acting for and on behalf of the state, such as President and Vice President, House of People's Representatives, Judicial power; Administrative agencies, which are state agencies with non-state administration administrative function. This means it does not act for and on behalf of the state, but only operate administrative function; and State auxiliary organ/agency/bodies, which are state agencies with function in support of the function of state agencies of state instrumentalities (Hantoro, 2016).

Ad hoc judge's position before the enactment of Law Number 5 of 2014 on State Civil Apparatus was other state official, that was of state official category. However, after the enactment of Law Number 5 of 2014 on State Civil Apparatus, ad hoc judge's position was then not state official. The change in ad hoc judge's position that became non-state official is caused by Law Number 5 of 2014 on State Civil Apparatus in the consideration that expressly states that Law Number 8 of 1974 on Civil Service Principles as amended by Law Number 43 of 1999 on Civil Service Principles it is not appropriate anymore for the national demand and global challenge that it needs to be amended. That Law Number 43 of 1999 on Civil Service Principles is replaced by Law Number 5 of 2014 on State Civil Apparatus causes its derivative regulations based on that law not applicable, thus ad hoc judge's position is not state official.

Based on the change in position, ad hoc judges in 2014 filed judicial review that was decided with Constitutional Court Decision No. 32/PUU-XII/2014. The decree rejects the applicants' petition for its

entirety. The definition of ad hoc judge should refer to something temporary and non-permanent, thus ad hoc judge is needed only to adjudicate certain cases. Therefore, ad hoc judge should have judiciary status only when handling a case that they are examining and adjudicating. This consideration bears the meaning that the definition ad hoc judge only refers to something temporary and it is needed only to adjudicate certain cases, thus the judiciary status is inherent only when they are adjudicating certain cases. The existence ad hoc judge that only refers to something temporary is actually of ad hoc agency (state auxiliary organ/agency/bodies) category. State auxiliary agency is supporting state agency or supporting body that serves to support the function of state instrumentalities (Iwan Satriawan, 2013). Although ad hoc agency or state auxiliary agency is principally giving support, but by construction, auxiliary agency in Indonesia has authority over that of executive, legislative and judicative agencies.

The existence of ad hoc judge is indeed supported by Law Number 48 of 2009 on Judicial Power and other laws and regulations on assignment of ad hoc judge. However, the laws and regulations do not put ad hoc judge in a separate agency, but within judicial power. In addition, ad hoc judge's authorities set forth in Article 32 Law Number 48 of 2009 on Judicial Power by substance are equal to judge's authorities, that are to examine, adjudicate and decide a case. Despite ad hoc judge's authorities only related to certain cases, however, that there are similarities in regard to authorities, ad hoc judge should not be stated of auxiliary agency category, but of primary organs category. Besides, the phrase "therefore, ad hoc judge should have judge status only when handling cases that they are examining and adjudicating" has also disregarding ad hoc judge status that should be inherent in judge status, either in or out of proceedings, since judicial code of ethics do not only apply to judge, but also to ad hoc judge.

That ad hoc judge's position of non-state official as referred to in Article 122 item e Law Number 5 of 2014 on State Civil Apparatus does not contradict the 1945 Constitution, given that the 1945 Constitution does not determine any limitation related to the qualification whether or not judge is of state official. The only phrase regarding state official in the 1945 Constitution only exists in Article 24 paragraph (5), that each constitutional justice must possess integrity and a personality that is not dishonorable, and shall be fair, shall be a statesperson who has a command of the Constitution and the public institutions, and shall not hold any position as a state official. Based on the legal consideration, it is apparent that the 1945 Constitution does not specifically set the qualifications of judge of whether or not they are state official. However, although the 1945 Constitution does not set it, but there are laws and regulations regulating the qualification of state administrators. The provisions of state administrative mechanisms are set forth in Law Number 28 of 1999 on State Administrators Who are Clean from Corruption, Collusion, and Nepotism. Article 1 paragraph (1) Law Number 28 of 1999 on State Administrators Who are Clean from Corruption, Collusion, and Nepotism states that state administrators are state officials who perform executive, legislative and judicative functions and other officials with main functions and duties related to state administrators in accordance in accordance with prevailing laws and regulations. Moreover, Article 2 states that state administrators include: state official in state supreme body, state official in high state body, minister, governor, judge, other state officials in accordance with prevailing laws and regulations, and other officials with strategic function related to state administrator in accordance with prevailing laws and regulations.

The change in ad hoc judge's position into non-state official as referred to in Article 122 item e Law Number 5 of 2014 on State Civil Apparatus causes disharmony of legislation, since the change in ad hoc judge's position into non-state official causes the provisions contradictory to Law Number 28 of 1999 on State Administrators Who are Clean from Corruption, Collusion, and Nepotism. Based on the provisions, ad hoc judge's authorities and existence have indeed been set forth in Law Number 48 of 2009 on Judicial Power and other laws and regulations related to assignment of ad hoc judge. However, although the authorities and existence have been set forth in laws and regulations, the authorities and existence are not supported by their position as state official or other officials with main functions and duties related to state administrator, thus ad hoc judge is not within state administrators' qualifications.

That the determination of whether or not the qualifications of judge *in casu* ad hoc judge is state official is an open legal policy that may be amended at any time by parliamentary drafters in accordance with the existing demand of necessity and development pursuant to the types and specifications and qualifications of the position. Therefore, determination of state official qualifications that are exempted for ad hoc judge is also within the authority of parliamentary drafters. Open legal policy in opinion of the Constitutional Court is a policy on the provisions of certain Article in law by parliamentary drafters. According to Muktie Fadjar, open legal policy arose when the 1945 Constitution commanded regulation of certain norms into law, but it only gave outline instruction, while the law formed must give more detailed regulation (Galang, 2020).

The open legal policy principle is actually not mere empty paper on which parliamentary drafters can write anything. The principle must be based on and have clear constitutional motives, goals or needs to determine the needs (Ajie, 2016). The open legal policy principle often used in the Constitutional Court's consideration, otherwise, shows legal uncertainty, since legal consideration based on open legal policy will raise uncertainty, given that the legal principle in Indonesia on one hand tends to judicial activism or constitutional supremacy, however, on the other hand, the Constitutional Court tends to use open legal policy as material of consideration, thus it tends to use the judicial restraint or parliamentary supremacy approach (Iwan Satriawan, 2013).

Based on the explanation above, it is apparent that ad hoc judge is assigned by President through Presidential Decree and Supreme Court Decree based on Presidential Decree. State power in Indonesia, according to the 1945 Constitution, is divided into three: Constitutional power, that is at the hand of the People Consultative Assembly (MPR), as expressed in Article 3 paragraph 1 of the 1945 Constitution; Executive power, that is at the hand of President as set forth in Article 4 paragraph (1) of the 1945 Constitution. Legislative power is held by the House of People's Representatives as set forth in Article 20 paragraph (1) of the 1945 Constitution. Judicative power is held by the Supreme Court and Constitutional Court as referred to in Article 24 paragraph (2) of the 1945 Constitution.

Based on the division of power above, ad hoc judge should be under judicative power appointed by the Supreme Court, also considering that ad hoc judge is not state official like supreme court justice and constitutional court justice. The brief of ad hoc judge's position as executor of judicative power clearly also causes a brief on the legal power of ad hoc judge's judgment. This causes legal certainty issue for ad hoc judge's judgment. With regard to ad hoc judge's position as auxiliary organ, they should not be equalized to career judge, supreme court justice, and constitutional court justice, given that Indonesia follows the constitutional state system that automatically follows the state primary constitutional organ tradition (Basarah, 2014). The reason is that ad hoc judge is only auxiliary and support for the performance of judicature agencies that are constitutionally performed by career judge under Supreme Court, Supreme Court Justice, and Constitutional Court Justice. Ad hoc judge's position as auxiliary organ in Indonesia it not clearly expressed, either ad hoc judge's position as auxiliary organ under auxiliary organ formation regulation, under independence of auxiliary organ, or under auxiliary organ's duties and functions (Kelik Iswandi, 2020).

Criminal Corruption Court in Indonesia is set forth in Law Number 46 of 2009. Ad hoc judge is set forth in Article 1 paragraph (1) and paragraph (3) Law Number 46 of 2009. Article 1 paragraph (1) Law Number 46 of 2009 states that "judge means Career judge and Ad hoc judge". Article 1 paragraph (3) Law Number 46 of 2009 states that "ad hoc judge means an individual assigned under requirements designed in this Law as criminal corruption judge". The scope of duties and period of office of ad hoc judge in criminal corruption judicature is set forth in Article 10 paragraph (4) and paragraph (5) Law Number 46 of 2009 Criminal Corruption Court.

Law Number 46 of 2009 Criminal Corruption Court with regard to regulation on judge's position as an official is oriented to Law of the Republic of Indonesia Number 4 of 2004 on Judicial Power. Article 31 Law of the Republic of Indonesia Number 4 of 2004 on Judicial Power explains that judge is an official

that operates judicial power, however, Law of the Republic of Indonesia Number 4 of 2004 on Judicial Power does not regulate ad hoc judge clearly. Ad hoc judge is then set forth in Law of the Republic of Indonesia Number 48 of 2009 that replaces Law of the Republic of Indonesia Number 4 of 2004 on Judicial Power. This can be found in Article 1 paragraph (9), Article 32, and Article 49 Law of the Republic of Indonesia Number 48 of 2009 on Judicial Power. Ad hoc judge's position is also set forth in Law Number 46 of 2009.

Ad hoc judge's position as an official in Law Number 46 of 2009 Criminal Corruption Court is actually unclear, since Law Number 46 of 2009 Criminal Corruption Court is based on Law of the Republic of Indonesia Number 4 of 2004 on Judicial Power, instead of on Law of the Republic of Indonesia Number 48 of 2009. This can be observed in the legal basis for formation of Law Number 46 of 2009 Criminal Corruption Court, that in the legal basis of Law Number 46 of 2009 Criminal Corruption Court, the basis of provisions related to judicial power does not use Law of the Republic of Indonesia Number 4 of 2004 on Judicial Power, not use Law of the Republic of Indonesia Number 48 of 2009.

The validity of ad hoc judge's position as one of the executors of judicial functions in Indonesia can be viewed in authority perspective proposed by Joseph Raz. Raz considers that an authority given by the state, or authority of the state, is legitimacy of a state agency or state instrument authority. Without legitimacy from the state, the authority is weak. Raz who is a political expert of normative school closes acknowledgement of authority out of legitimacy from social-customs system (Huagrad, 2018).

With regard to ad hoc judge's position, that is not considered state official by Indonesia, within Joseph Raz's dimension, ad hoc judge cannot be taken as one with state authority. With this condition, ad hoc judge clearly cannot be called state instrumentality in performance of state power function in judicative field. Sociological reason related to specificity of field and need for clean judicature environment is not a benchmark in Raz's perspective when viewing ad hoc judge's position as one receiving legitimate authority from the state. The authority given to ad hoc judge can also be viewed in the perspectives of J.G. Brouwer dan A.E. Schilder. J.G. Brouwer dan A.E. Schilder state that authority is given through attribution, delegation and mandate (Parikesit, 2018).

The reason of sociological need for ad hoc judge that is to realize judicature that is free from corruption, collusion, and nepotism is actually degraded, since there is ad hoc judge involved in corruption in Indonesia. The table below is related to this matter (Kompas, 2022):

Table 1. Number of Ad Hoc Judges Involved in Corruption Case

No.	Year	Name of Ad Hoc Judge	Case
1.	2012	Kartini Julianna Mandalena Marpaung	Bribery case
2.	2012	Heru Kisbandono	Bribery case
3.	2014	Ramlan Comel	Bribery case
4.	2018	Merry Purba	Bribery case

The other sociological reason on which ad hoc judge existence is based is ad hoc judge's special expertise that is all this time not possessed by career judge. This clearly causes anomaly in the definition of the *Ius Curia Novit* principle. Judge's knowledge needed criminal corruption judicature is not separated from the dynamics of law development, while the knowledge in other science is needed only for means of proof and improve judge's trust. With regard to the reason of ad hoc judge's special expertise with no separate parameters that are not expressly explained in legal regulations, when the special knowledge covers various fields of knowledge, including legal knowledge field, the reason of ad hoc judge existence related to the special expertise clearly violates the *Ius Curia Novit* principle.

3.2 Comparison of Ad Hoc Judge's Position Di Indonesia with Ad Hoc Judge Regulation in Inter-American Court of Human Rights

The position of state auxiliary organs in America and European countries developed in the last three decades of the 20th century (Ash-Siddiqy, 2010). State auxiliary organs in America and European countries grew as the impact of performance range of the primary constitutional organs, including in terms of law enforcement agencies, the state agencies in America consist of executive branch, legislative branch, and judicial branch. Ad hoc judges exist in the concept of Inter-American Court of Human Rights. The existence of ad hoc judges in American Convention on Human Rights.

Article 55 of the American Convention on Human Rights states that:

1. *If a judge is a national of any of the States Parties to a case submitted to the Court, he shall retain his right to hear that case.*
2. *If one of the judges called upon to hear a case should be a national of one [of] the States Parties to the case, any other State Party in the case may appoint a person of its choice to serve on the Court as an ad hoc judge.*
3. *If among the judges called upon to hear a case none is a national of any of the States Parties to the case, each of the latter may appoint an ad hoc judge.*
4. *An ad hoc judge shall possess the qualifications indicated in Article 52.*
5. *If several States Parties to the Convention should have the same interest in a case, they shall be considered as a single party for purposes of the above provisions. In case of doubt, the Court shall decide.*

The assignment of ad hoc judge is set forth in Rules of Procedure of The Inter-American Court of Human Rights. Article 20 of the Rules of Procedure of The Inter-American Court of Human Rights states:

1. *In a case arising under Article 45 of the Convention, the Presidency, acting through the Secretariat, shall inform the States referred to in that Article of their right to appoint a Judge ad hoc within 30 days following the notification of the application.*
2. *When it appears that two or more States have a common interest, the Presidency shall inform them that they may jointly appoint one Judge ad hoc, pursuant to Article 10 of the Statute. If those States do not communicate their agreement to the Court within 30 days of the last notification of the application, each State may propose its candidate within the following 15 days. Subsequently, if more than one candidate has been nominated, the Presidency shall choose a common Judge ad hoc by lot, and shall communicate the result to the interested parties.*
3. *Should the interested States fail to exercise their right within the time limits established in the preceding paragraphs, they shall be deemed to have waived that right.*
4. *The Secretary shall communicate the appointment of Judges ad hoc to the Inter-American Commission, the representatives of the alleged victim, and the petitioning State or respondent State, as applicable.*
5. *The Judge ad hoc shall take an oath at the first session devoted to the consideration of the case for which he or she has been appointed.*
6. *Judges ad hoc shall receive honorary on the same terms as Titular Judges.*

The judicature implementing system in The Inter-American Court of Human Rights is regulated in the Rules of Procedure of The Inter-American Court of Human Rights. Article 29 through of Article 33 The Inter-American Court of Human Rights regulated in the Rules of Procedure of The Inter-American Court of Human Rights explain that judicature process is performed through filing case of human rights abuse in the US states of disputing parties or their representatives, either representative of community organization or state representative of disputing parties. The filed case is then examined by four judges,

composed of judge of states representative and one ad hoc judge. After decision of commission of judges, the decision is written and validated by the four judges and President and Vice-President of The Inter-American Court of Human Rights. The decision is read by judges of state representatives, while ad hoc judge only gives consideration. Ad hoc judge's position in The Inter-American Court of Human Right is acknowledged as a judge that replaces titular judge representing US states, but ad hoc judge's position does not replace the titular judge's position. Ad hoc judge's position is not an official in the environment of the Inter-American Court of Human Rights.

Ad hoc judge's position is different from ad hoc judge's position in Indonesia. Ad hoc judge in Indonesia has unclear position after the enactment of Law Number 5 of 2014 on State Civil Apparatus. After the enactment of Law Number 5 of 2014 on State Civil Apparatus, ad hoc judge's position was then not state official. The change in ad hoc judge's position that became non-state official is caused by Law Number 5 of 2014 on State Civil Apparatus in the consideration that expressly states that Law Number 8 of 1974 on Civil Service Principles as amended by Law Number 43 of 1999 on Civil Service Principles it is not appropriate anymore for the national demand and global challenge that it needs to be amended. That Law Number 43 of 1999 on Civil Service Principles is replaced by Law Number 5 of 2014 on State Civil Apparatus causes its derivative regulations based on that law not applicable, thus ad hoc judge's position is not state official. Ad hoc judge in its development is not expressly designated as state auxiliary organ acknowledged in Indonesia. Therefore, ad hoc judge existence in Indonesia has different concept with that of ad hoc judge in the Inter-American Court of Human Rights that is clearly regulated in the American Convention on Human Rights and Rules of Procedure of The Inter-American Court of Human Rights.

Based on this, the findings and novels in this article are:

- a. The Brief Of Ad Hoc Judge's Constitutional Position In The Concept Of State Power In Indonesia

The findings and novelties in this article are related to ad hoc judge's position as executor of judicative power can be understood together with the 1945 Constitution. There are four institutions acknowledged with state power: constitutive institution, held by the People's Consultative Assembly; executive, held by President; judicative institution, held by Supreme Court justice and Constitutional Court justice. The division of power can be found in Article 3 paragraph 1 of the 1945 Constitution, Article 4 paragraph (1) of the 1945 Constitution, Article 20 paragraph (1) of the 1945 Constitution, and Article 24 paragraph (2) of the 1945 Constitution. The chart below is related to the state power division in Indonesia:

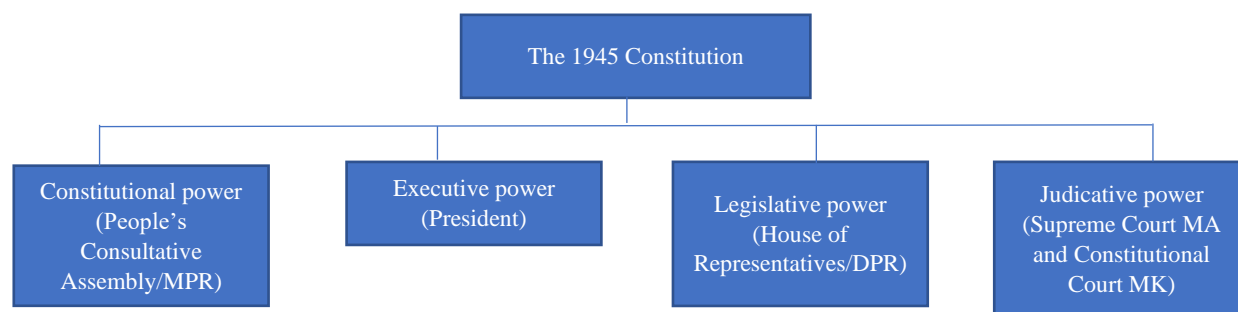


Figure 1. State Power Division in Indonesia

Based on the power division above, ad hoc judge should be under judicative power domain and assigned by Supreme Court, given that ad hoc judge is not a state official like supreme

court justice and constitutional court justice as expressed in Article 122 item e Law Number 5 of 2014 on State Civil Apparatus. The brief of ad hoc judge's position as executor of judicative power clearly also causes a brief on legal power of ad hoc judge's judgment. *ad hoc*. This causes legal certainty issue for ad hoc judge's judgment.

b. The Brief of Ad Hoc Judge's Position as State Auxiliary Organ in Criminal Corruption Judicature in Indonesia

Ad hoc judge's position as auxiliary organ, should not be equalized to that of career judge, supreme court justice, and constitutional court justice, given that Indonesia follows the constitutional system, that automatically follows the state primary constitutional organ tradition. The reason is that ad hoc judge is only auxiliary and support for the performance of judicature agencies that are constitutionally performed by career judge under Supreme Court, Supreme Court Justice, and Constitutional Court Justice. Ad hoc judge's position as auxiliary organ in Indonesia is also not clearly expressed, either ad hoc judge's position as auxiliary organ under auxiliary organ formation regulation, under independence of auxiliary organ, or under auxiliary organ's duties and functions (Kelik Iswandi N. P., 2020).

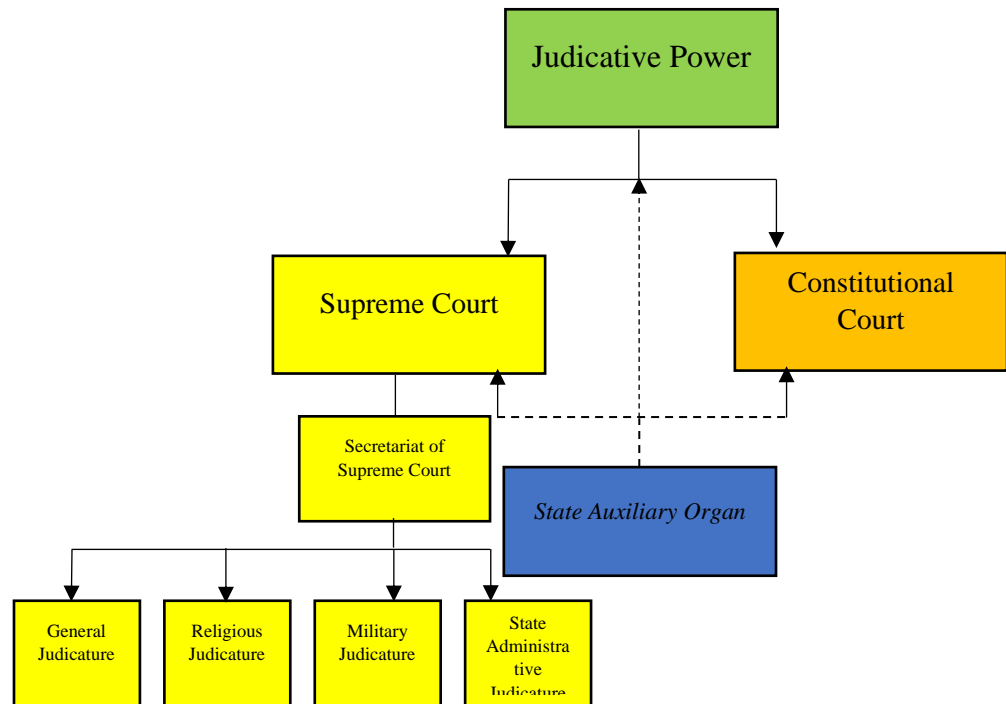


Figure 2. State Auxiliary Organ's Position that Should be within Judicative Power Structure

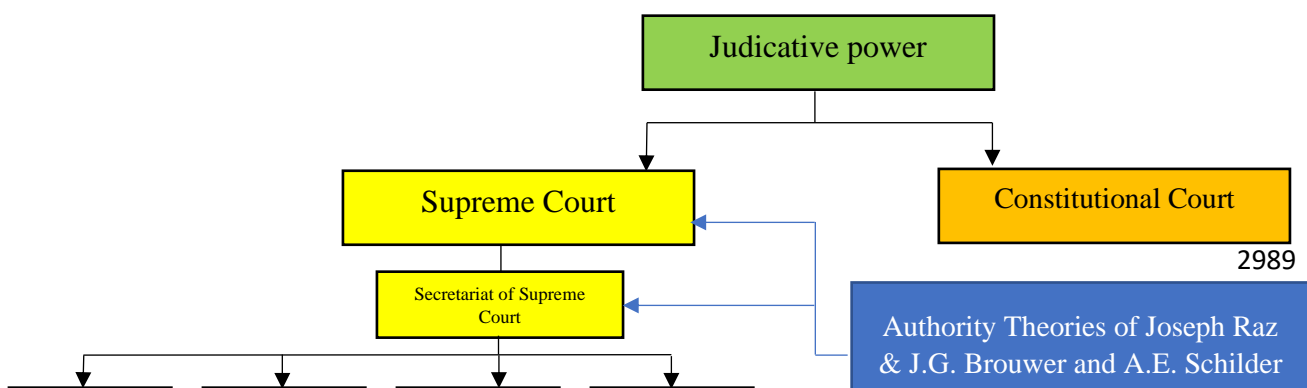


Figure 3. The Brief of Ad Hoc Judge's Position as State Auxiliary Organ in Judicative Power Structure

c. The Brief Of Reason Of The Emergence Of Ad Hoc Judge In Sociological Perspective

The reason of the emergence of ad hoc judge is sociologically to realize public trust in judicature, including criminal corruption judicature with involvement of community element as ad hoc judge, is actually inappropriate to what is expected. From 2012 to 2018 there were four ad hoc judges involved in criminal corruption, three of which were ad hoc judges in criminal corruption judicature. The reason is that ad hoc judge as law enforce cannot be separated from non-legal elements, either personally or on social environment scale.

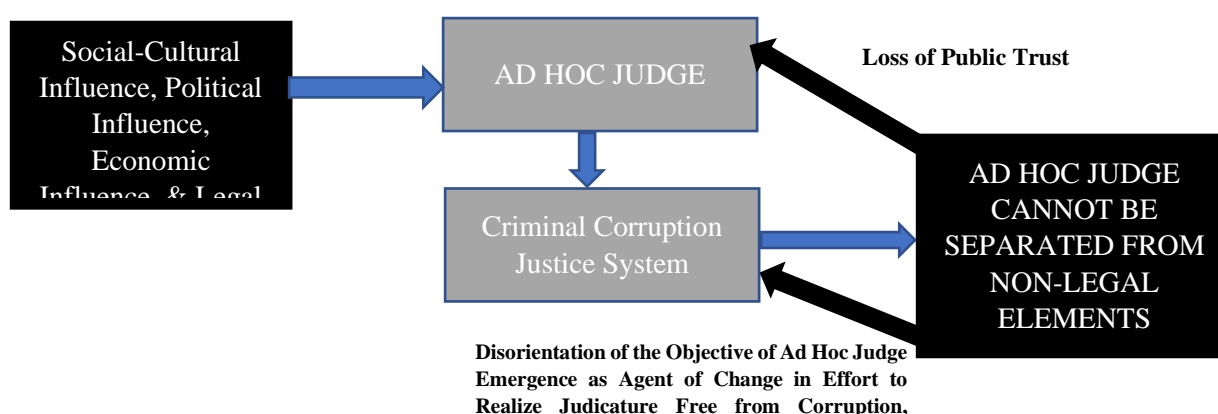


Figure 4. The Influence of Non-Legal Elements on Ad Hoc Judge

d. Disorientation of *Ius Curia Novit* Principle in Discussion on Ad Hoc Judge's Position




Ad hoc judge's special expertise that has not had its own parameters and not been explained expressly in rules of law, the special knowledge covers various fields of knowledge, including law knowledge field, ad hoc judge existence related to the special expertise clearly violates the *Ius Curia Novit* principle. This is clearly unjustifiable, given that a career judge from recruitment is required to have legal understanding and when declared passing recruitment for judge and becoming judge candidate before becoming judge, candidate judge has received guidance on skills through judicial education and training. Judicial knowledge and expertise actually also develop following the development of judge's experience as legal expert and part of social institution; thus, the proposition of career judge's expertise and skills cannot be doubted.

4. Conclusion

Ad hoc judge by laws and regulations cannot be deemed as the administrator of judicative power. This is constitutionally apparent with non-existent authority of ad hoc judge as executor of judicative power in Article 24 paragraph (2) of the 1945 Constitution. Ad hoc judge's lack of power as executor of judicative power is also found in Article 122 item e Law Number 5 of 2014 on State Civil Apparatus expressly stating that ad hoc judge is not state official. The existence of ad hoc judge involved in various corruption cases also shows that the sociological reason of ad hoc judge existence in judicature environment is as not as it is expected. Ad hoc judge's position as state auxiliary organ in Indonesia is also not regulated clearly.

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