

## **Mapping the Ideology of Constitutional Judges and The President of The Republic of Indonesia: An Analysis of Decision Considerations**

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**Abstract.** The power relations between state institutions can be influenced by the state institutions that propose them, such as the appointment of United States judges who have ideological tendencies that are identical to the president. This study attempts to determine the ideology of constitutional judges and the political ideology of the President of the Republic of Indonesia through an analysis of the considerations of decisions and political parties. Is there a relationship between the political ideology of the president and constitutional judges in the consideration of decisions in judicial review cases? The design of this research is library research with a conceptual, legislative, and case study approach. Qualitative data analysis in the form of copies of Constitutional Court decisions supported by a study of related theoretical literature. The results of the study indicate that the ideology of constitutional judges seen from the considerations of their decisions is mostly moderate, although some considerations tend to be secular and Islamic. The political ideology of the president based on the ideology of the political parties supporting President Megawati and President Jokowi tends to be secular, while President Yudhoyono is nationalist-religious. The ideological relationship of the constitutional judges proposed by the president is identical to the political ideology of President Megawati and President Yudhoyono. Meanwhile, during President Jokowi's term, the ideology of the constitutional judges in considering their decisions is not identical to the ideology of the president's political party.

**Keywords :** *Ideology, Power Relation, President, Independence Of Judges, Constitutional Court.*

**Abstrak.** *Relasi kekuasaan antar lembaga negara dapat dipengaruhi oleh lembaga negara pengusulnya, seperti pengangkatan hakim Amerika Serikat yang memiliki kecenderungan ideologi yang identik dengan presiden. Penelitian ini berusaha untuk mengetahui ideologi hakim konstitusi dan ideologi politik Presiden Republik Indonesia melalui analisis pertimbangan putusan dan partai politik. Adakah relasi ideologi politik presiden dan hakim konsitusi dalam pertimbangan putusan perkara pengujian undang-undang. Desain penelitian ini adalah penelitian kepustakaan dengan pendekatan konseptual, perundang-undangan dan kasus. Analisis data kualitatif berupa salinan putusan Mahkamah Konstitusi yang didukung dengan studi literatur teori terkait. Hasil penelitian menunjukkan bahwa ideologi hakim konstitusi dilihat dari pertimbangan putusannya mayoritas bersifat moderat, meskipun beberapa terdapat pertimbangan yang cenderung sekuler dan cenderung islamis. Ideologi politik presiden berdasarkan ideologi partai politik pengusung Presiden Megawati dan Presiden Jokowi cenderung sekuler, sedangkan Presiden Yudhoyono nasionalis-religius. Relasi ideologis hakim konstitusi yang diajukan presiden identik dengan ideologi politik Presiden Megawati dan Presiden Yudhoyono. Adapun pada masa Presiden Jokowi, ideologi hakim konstitusi dalam pertimbangan putusannya tidak identik dengan ideologi partai politik presiden.*

**Kata Kunci:** *Ideologi, Relasi, Kekuasaan, Presiden, Independensi Hakim, Mahkamah Konstitusi*

## INTRODUCTION

Judicial power is an independent power to administer justice to uphold law and justice.<sup>1</sup> The Constitutional Court is one of the actors of judicial power in Indonesia. Judges and constitutional judges in carrying out their duties and functions are required to maintain judicial independence.<sup>2</sup> The independence and impartiality of constitutional judges are very important when faced with influential political power from the party that appoints or selects constitutional judges.<sup>3</sup> Judges must be given independence and must not be pressured by anyone.<sup>4</sup> The background of a judge essentially influences the pattern of decisions. This background can be

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<sup>1</sup> Article 24 of the 1945 Constitution of the Republic of Indonesia.

<sup>2</sup> Article 3 paragraphs (1) and (2) Republic of Indonesia Law no. 48 of 2009 concerning Judicial Power.

<sup>3</sup> Maruarar Siahaan, *Hukum Acara Mahkamah Konstitusi Republik Indonesia*, (Jakarta, Sinar Grafika, 2012), 46.

<sup>4</sup> Firman Floranta Adonara, "Prinsip Kebebasan Hakim dalam Memutus Perkara Sebagai Amanat Konstitusi", *Jurnal Konstitusi*, vol. 12, no. 2 (2015), 218-236.

based on the political ideology or sociological background of a judge. As Sunstein argues, political ideology does affect judicial decisions, at least in some cases, and at least to some extent.<sup>5</sup> In addition, Jaroslaw Kantorowicz and Nuno Garoupa see that there are still several things that influence the judge's decision, namely individual preferences, intra-court interactions, and the influence of other related actors, including political branches of government and the general public.<sup>6</sup>

In practice in several countries, such as the United States, the tendency of the judge's decision can be monitored based on the political background of the president who chooses the judge. Presidents from the Republican Party tend to choose conservative judges. Meanwhile, presidents from the Democratic Party will choose judges who have a liberal mindset. This pattern continues to this day and has become one of the characteristics of the judicial power in the United States.<sup>7</sup> Does this practice also occur in Indonesia? It is interesting to study if we look at several decisions of the Constitutional Court of the Republic of Indonesia (MKRI) that have caused controversy in the public eye, such as the decision on the regulation of age requirements for presidential and vice-presidential candidates<sup>8</sup> and the dismissal of constitutional judge Aswanto by the DPR.<sup>9</sup>

The existence of an ideological relationship between constitutional judges and the President who proposed them is feared to potentially affect the independence and impartiality of constitutional judges in deciding cases for certain interests. Therefore, it is necessary to know whether there is an

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<sup>5</sup> René Reyes dan Jessica W Reyes, "Religion In Judicial Decision-Making: An Empirical Analysis", *Brigham Young University Law Review*, vol. 2019, iss. 1, (2019), 293-337.

<sup>6</sup> Jaroslaw Kantorowicz dan Nuno Garoupa, "An Empirical Analysis of Constitutional Review Voting in The Polish Constitutional Tribunal, 2003–2014", *Constitutional Political Economy*, vol. 27, iss. 1, (2016), 66-92.

<sup>7</sup> Michael S. Kang dan Joanna M Shepherd, "The Long Shadow of Bush v. Gore: Judicial Partisanship in Election Cases", *Stanford Law Review*, Vol. 68 (2016), 1411-1452.

<sup>8</sup> Constitutional Court Decision Number 90/PUU-XXI/2023 concerning the judicial review of Law Number 7 of 2017 concerning General Elections; concerning the determination of the age requirements for presidential and vice presidential candidates.

<sup>9</sup> See <https://news.detik.com/berita/d-6342067/ini-dasar-hukum-dpr-recall-aswanto-ternyata-tindak-lanjut-putusan-mk>. Accessed April 1, 2024.

ideological relationship between constitutional judges and the President of the Republic of Indonesia. The focus of this study is to answer how the mapping of the ideology of constitutional judges and the President of the Republic of Indonesia through consideration of decisions and politics. And is there a relationship between the President's political ideology and the ideology of the judges he appoints in deciding cases of judicial review?

There have been quite a lot of discourses on political ideology and theories of judicial decision-making, including Fossati's research, which maps the ideology of Indonesian society into five groups, namely secularist, leaning secularist, moderates, leaning Islamist, and Islamist.<sup>10</sup> The theory of ideology mapping is the basic theory in this research. In addition, it is also supported by the theory of decision-making and other related theories. Previous research on the reasons or factors that influence judges in making decisions, by Jarosaw Kantorowicz and Nuno Garoupa.<sup>11</sup> The value orientation adopted by judges also influences the handling of cases, as Syamsudin's research shows three types of judge orientations, namely material orientation, orientation of favorable situations (pragmatic), and orientation of ideal legal values (idealistic).<sup>12</sup> According to Reyes, three reasons form the basis for judges in making decisions, namely demographics, political ideology, and religious-influence.<sup>13</sup> Frank B. Cross also emphasized that ideology influences judges' decisions, so it is natural that there are dissenting opinions in judges' decisions.<sup>14</sup> The study of dissenting opinion was also mentioned by Youngjae Lee; he argued that the concept of beyond a reasonable doubt is only conceptual because the jury's decision is often made by majority vote.<sup>15</sup>

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<sup>10</sup> Diego Fossati, "The Resurgence Of Ideology In Indonesia: Political Islam, Aliran and Political Behaviour", *Journal Of Current Southeast Asian Affairs* vol. 38, iss. 2 (2019), 119–148.

<sup>11</sup> Jarosław Kantorowicz dan Nuno Garoupa, "An Empirical Analysis...", 66-92.

<sup>12</sup> M. Syamsudin, "Rekonstruksi Perilaku Etik Hakim dalam Menangani Perkara Berbasis Hukum," *Jurnal Hukum: IUS QULA IUSTUM*, vol. 18, (Oktober 2011), 127-145.

<sup>13</sup> René Reyes dan Jessica W Reyes, "Religion in Judicial Decision-Making:...", 293-337.

<sup>14</sup> Frank B. Cross, "Collegial Ideology In The Courts", *Northwestern University Law Review*, vol. 103, iss. 3, (2009), 1399-1426.

<sup>15</sup> Youngjae Lee, "Reasonable Doubt and Disagreement", *Legal Theory*, vol. 23, iss. 4, (2017), 203-257.

Unlike previous studies, this study specifically attempts to map the ideology of judges based on legal considerations in handling judicial review cases and also attempts to map the ideology of the President of the Republic of Indonesia according to the ideological background of his political party. The existence of this ideological mapping can be seen in the ideological relationship between constitutional judges and the president who appointed them.

## **METHOD**

This research is a literature study using a conceptual and case approach. The conceptual approach is used to see the concept in the categorization of the president's political ideology and the MKRI's ideologically charged decisions. The case approach is by analyzing the MKRI's decisions. Data were collected through documentation and literature studies. Secondary data is in the form of a copy of the MKRI's decisions for 2003–2009 and a copy of the MKRI's decisions for 2018–2023. The data was taken to provide an overview of the results of the MKRI's decisions for each Indonesian president since the formation of the MKRI, namely President Megawati Soekarnoputri (13-8-2003 to 20-10-2004), President Susilo Bambang Yudhoyono (20-10-2004 to 20-10-2009), and President Joko Widodo (21-1-2018 to 31-1-2023). In addition, it is also supported by related theories. The data analysis in this study was descriptive-qualitative, which aims to obtain a picture of the ideology of constitutional judges and the president and the ideological relations between the two.

## **RESULT AND DISCUSSION**

### ***Ideology Mapping Considerations of Constitutional Judges Nominated by the President of the Republic of Indonesia***

The Constitutional Court's decision with ideological content in this study refers to the definition of a decision that tests the norms of a law that contains the ideological content of a person or group and also includes the basis for the legal considerations of the Constitutional Court judges that contain ideological content. The ideological content studied is limited to the point of contact between the state and a particular religion or belief. This refers to Fossati's research, which maps the ideology of Indonesian society into five groups, namely secularist, leaning secularist, moderate (centrist),

leaning Islamist, and Islamist.<sup>16</sup> To classify the considerations of constitutional judges from the President into the categories of Islam, tending to be Islamic, moderate, tending to be secular, and secular, there needs to be an indicator contained in each consideration of the constitutional judge from the President.

Table 1. Ideological Categorization in the Considerations of Constitutional Judges

No	Category	Indicator
1	Islamist	The tested norm contains ideological content Only uses the basis of absolute Islamic legal arguments Prioritizes the interests of Muslims Example: Constitutional Court Decision No. 008/PUU-III/2005 Case Number 058-059-060-063/PUU-II/2004 Judicial Review of Law Number 7 of 2004 concerning Water Resources, constitutional judge Abdul Mukti Fadjar used considerations from the Al-Quran Q.S. al-Furqan: 54, Q.S. an-Nur: 45, Q.S. al-Anbiya': 30.
2	Leaning Islamist	The norms being tested contain ideological content using Islamic and non-Islamic legal considerations Prioritizing the interests of the Muslim majority Example: Constitutional Court Decision No. 065/PUU-II/2004 Judicial Review of Law Number 26 of 2000 concerning the Human Rights Court against the 1945 Constitution of the Republic of Indonesia Concerning the Implementation of the Retroactive Principle of the Human Rights Court Law Constitutional Judge Abdul Mukti Fadjar used Islamic law and non-Islamic law. He used the basis of Q.S. al-Israa: 15, UDHR Article 11 paragraph (2), Cairo Islamic Human Rights Declaration Article 19 letter d; in addition, he also used the basis of consideration of the Rome Statute of the ICC 1998 Article 11 paragraph (1) and Article 24 paragraph (1), and the 1945 Constitution of the Republic of Indonesia Article 28I paragraph (1).
3	Moderate	The tested norm contains ideological content Using a legal basis other than Islamic law whose teaching values are by and derived from Islamic legal teachings For the benefit of Muslims and non-Muslims Example: Constitutional Court Decision No. 005/PUU-I/2003 Judicial Review of Law Number 32 of 2002 concerning Broadcasting related to broadcasting institutions and press freedom. Constitutional judge Harjono used the basis of consideration in the Preamble to the 1945 Constitution and

<sup>16</sup> Diego Fossati, "The Resurgence of Ideology In Indonesia...", 119–148.

		referred to the provisions of Article 28J paragraph (2) of the 1945 Constitution (Article 28J contains considerations of religious values).
4	Leaning Secularist	<p>The norms being tested contain ideological content</p> <p>Only use legal considerations other than Islamic legal arguments and are not explicitly regulated in Islamic law.</p> <p>Ignore the interests of Muslims</p> <p>Example: considerations of constitutional judge Maria Farida Indrati in the Constitutional Court Decision No. 22-24/PUU-VI/2008 Judicial Review of Law Number 10 of 2008 concerning the General Election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council concerning the requirements for representation of female legislative candidates. She used the basis of considerations of Article 28H paragraph (2) of the 1945 Constitution and CEDAW.</p>
5	Secularist	<p>The norms being tested contain ideological content</p> <p>Only use legal considerations other than Islamic legal arguments that are contrary to Islamic law.</p> <p>Ignore the interests of Muslims and limit the interests of Muslims.</p> <p>Example: considerations of constitutional judge Daniel Yusmic P. Foekh in the Constitutional Court Decision No. 24/PUU-XX/2022 Material Review of Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019 Related to application for interfaith marriage, considerations look at the facts of the District Court's determination of the application for interfaith marriage, proposal for an Interfaith Marriage Book, There needs to be a change in the article related to the norms of interfaith marriage by following the dynamics of community life, science, and technology. Therefore, the DPR and the President should rearrange the provisions of the quo articles to be more humane, accommodate various interests, and be able to provide more protection to all citizens, so that the norms of Article 2 paragraph (1) and paragraph (2) and Article 8 letter f of the Marriage Law should become an open legal policy.</p>

Source: Processed from various decisions of the Constitutional Court of the Republic of Indonesia (2003-2023)

Based on the results of the analysis of the considerations of the Constitutional Court's decisions containing ideological content in cases of judicial review of laws since the 2003-2009 period and the 2018-2023 period, the following ideological mapping was obtained in the decision considerations.

Table 2. The Number of Considerations of Constitutional Judges in Cases of Judicial Review of Laws Containing Ideological Content during the reign of Megawati Soekarnoputri:

<b>Ideological</b>	Harjono	Ahmad Syarifuddin Natabaya	Abdul Mukthie Fadjar	<b>Total</b>
Secularist			1	<b>1</b>
Leaning Secularist	1	1	1	<b>3</b>
Moderate	4	4	3	<b>11</b>
Leaning Islamist				
Islamist				

Source: Processed from Analysis of Mapping of Ideologically Contained Decisions (2003-2004)

Table 3. The Number of Considerations of Constitutional Judges in Cases of Judicial Review of Laws Containing Ideological Content during the reign of Susilo Bambang Yudhoyono:

<b>Ideological</b>	Harjono	Ahmad Syarifuddin Natabaya	Abdul Mukthie Fadjar	Maria Farida Indrati	Achmad Sodikin	<b>Total</b>
Secularist			1			<b>1</b>
Leaning Secularist	2	2	2	2	1	<b>9</b>
Moderate	9	10	10	2	2	<b>33</b>
Leaning Islamist	2	2	3			<b>7</b>
Islamist			2	1	1	<b>4</b>

Source: Processed from Analysis of Mapping of Ideologically Contained Decisions (2004-2009)

Table 4. The Number of Considerations of Constitutional Judges in Cases of Judicial Review of Laws Containing Ideological Content during the reign of Joko Widodo:

<b>Ideological</b>	Maria Farida Indrati	I Dewa Gede Palguna	Saldi Isra	Enny Nurbaningsih	Daniel Yusmic P. Foekh	<b>Total</b>
Secularist					1	<b>1</b>
Leaning Secularist			1	1	1	<b>3</b>
Moderate	1	6	11	10	5	<b>33</b>
Leaning Islamist	1	1	2	1		<b>5</b>
Islamist		1	5	5	4	<b>15</b>

Source: Processed from Analysis of Mapping of Ideologically Contained Decisions (2018-2023)

The results of the ideological mapping of constitutional judges in the Constitutional Court's ideologically charged decisions from 2003 to 2009 and from 2018 to 2023 show that during President Megawati's era, the judges'



considerations were mostly moderate, although some judges held secularist and leaning-secularist views; however, there were no judges with Islamist or leaning-Islamist considerations. During President Yudhoyono's administration, the dominance of moderate and Islamist/leaning-Islamist judges' considerations was slightly greater than those of secularist/leaning-secularist judges. Meanwhile, in the Jokowi era, the dominance of moderate legal considerations and leaning-Islamist judges' considerations was significantly greater than those of secularist/leaning-secularist judges.

### ***Political Ideology of the President of the Republic of Indonesia***

Ideology is important, normal, and able to facilitate or reflect political action.<sup>17</sup> Political ideology can be understood as the actor's theorization of their position and the strategies available in the political field.<sup>18</sup> Anshari argues that there are two large groups, namely Islamic-Nationalists and Secular-Nationalists. Islamic Nationalists are those who are committed that the state and society are governed by Islam, while secular nationalists are those who are Muslim, Christian, and others who adhere to a strict separation between state and religion.<sup>19</sup>

The Indonesian President who initiated the formation of the Constitutional Court was Megawati Soekarnoputri. She is a prominent figure of the Indonesian Democratic Party (PDI) who has served as the chairperson of PDI-Perjuangan (PDI-P) until present. Megawati's presence in politics aimed to revive her father's (Soekarno's) teachings that were previously constrained under the New Order regime. PDI-P serves as a medium for political communication, developing and strengthening citizens' political participation by grounding Bung Karno's teachings as both a theory of struggle and the goal of political struggle.<sup>20</sup> According to Singh, since the 1999 General Election, political parties can be mapped on an ideological

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<sup>17</sup> Michael Freeden, "Ideology and Political Theory," *Journal of Political Ideologies*, vol. 11, no. 1, (February 2006), 19.

<sup>18</sup> John Levi Martin, "What is Ideology?", *Sosiologia: Problema e Praticas*, no. 77, (2015), 9.

<sup>19</sup> Endang Saifudin Anshari, *Piagam Jakarta 22 Juni 1945: Sebuah Konsensus Nasional Tentang Dasar Negara Republik Indonesia 1945-1959*, (Depok: Gema Insani, 1997), 4.

<sup>20</sup> Preamble of the Statutes and Bylaws of the Indonesian Democratic Party of Struggle (PDI-P) 2015-2020.

spectrum ranging from secular nationalist to conservative Islamic. PDI-P, founded by Megawati Soekarnoputri, is known to be in the secular-left category, as historically they are a combination of nationalist, socialist-left, and Christian parties.<sup>21</sup> Based on King's research, there are similarities between secular voter preferences who chose PNI and PKI in the 1955 election with those who voted for Golkar Party and PDI-P in the 1999 election.<sup>22</sup> It can be concluded that PDI-P, initiated by Megawati Soekarnoputri, falls within the spectrum of nationalist political parties with secular tendencies (nationalist-secular).

The 2004 election brought forth a military figure who became the sixth President of Indonesia, Susilo Bambang Yudhoyono (Yudhoyono). He was nominated by the Democratic Party. Yudhoyono also served as Chairman of the Democratic Party (2013-2020). According to its Articles of Association and Bylaws (AD/ART), the Democratic Party's political ideology is based on Pancasila, with a Religious-Nationalist ideology, emphasizing hard work for people's interests based on morals and religion while considering aspects of nationalism, humanism, and pluralism in pursuit of peace, democracy, and people's welfare.<sup>23</sup> In line with the Fossati survey, based on the Political Islam Index (PII) score of Democratic Party voters in responding to the relationship between the state and Islam, they have an Islamic tendency, namely at a score of 3.60 in the range of 1-5.<sup>24</sup> According to Bourchier, the Constitutional Court's affirmation of the constitutionality of the Blasphemy Law<sup>25</sup> helped transform Indonesia into a deeply religious country and paved the way for greater state involvement in enforcing moral

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<sup>21</sup> Bilveer Singh, "The 2004 Presidential Elections in Indonesia: Much Ado about Nothing?" *Contemporary Southeast Asia*, vol. 25, no. 3, (December 2003), 431-448. In Ari Ganjar Herdiansah, "Politikasi Identitas Dalam Kompetisi Pemilu di Indonesia Pasca 2014," *Jurnal Bawastu*, vol. 3, no. 2, (2017), 174.

<sup>22</sup> Dwight Y. King, *Half-hearted Reform: Electoral Institutions and the Struggle for Democracy in Indonesia*. (Portsmouth: Greenwood Publishing Group, 2003). In Ari Ganjar Herdiansah, "Politikasi Identitas...", 175.

<sup>23</sup> Article 3 of the Statutes and Bylaws of the Democratic Party 2015.

<sup>24</sup> Diego Fossati, "The Resurgence Of Ideology In Indonesia ...", 143.

<sup>25</sup> Constitutional Court Decision No. 140/PUU-VII/2009 and Constitutional Court Decision No. 56/PUU-XV/2017 concerning the Case of Judicial Review of Law Number 1/PNPS/1965 concerning Prevention of Abuse and/or Blasphemy of Religion in conjunction with Law Number 5 of 1969 concerning Statements of Various Presidential Decrees and Presidential Regulations as Laws.

norms based on Islamic (religious) values and conservative understandings of indigenous cultures.<sup>26</sup> Thus, President Yudhoyono's political ideology aligns with his party's ideology of Religious-Nationalism, showing Islamic tendencies in his policies.

In the 2014 election, Joko Widodo (Jokowi) was elected as the seventh President of Indonesia for two terms, nominated by PDI-P under Megawati Soekarnoputri's leadership. Presidential and Vice Presidential candidates must be proposed by political parties or coalitions of political parties participating in the general election.<sup>27</sup> This provision gives a central and strong role to political parties in determining the presidential government cabinet in Indonesia, thus allowing political parties to determine the dominance of the cabinet formed by the President.<sup>28</sup> Likewise, when the cabinet reshuffle is still intervened by political parties, the replacement of ministers is still full of political interests as a political reward and is also used as a tool for "political bargaining" in exercising the power of the Indonesian Presidential Government.<sup>29</sup> A President who is not the chairman of the winning political party, in this context, remains "hostage" to the policies and directives of the nominating party's chairperson, who holds more power in determining policy directions and party aspirations through their cadres in government and parliament.

As a PDI-P cadre, Jokowi's political ideology is simply visible in the party's cadre system. PDI-P's cadre formation aims to create national cadres with pioneering spirit and understanding, ability to interpret and implement Bung Karno's teachings in social, national, and state life.<sup>30</sup> This certainly has implications for Jokowi as both party cadre and Indonesian President. In

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<sup>26</sup> David M. Bouchier, "Two Decades of Ideological Contestation in Indonesia: From Democratic Cosmopolitanism to Religious Nationalism," *Journal of Contemporary Asia*, vol. 49, no. 5, (2019), 713.

<sup>27</sup> Article 6A paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

<sup>28</sup> Muhammad Yusrizal Adi Syaputra, "Koalisi Partai Politik di Kabinet: Antara Penguatan Lembaga Kepresidenan atau Politik Balas Budi," *Udayana Magister Law Journal*, vol. 9, no. 1, (May 2020), 111.

<sup>29</sup> Yusron Munawir, *Problematisasi Pelaksanaan Hak Prerogatif Presiden Dalam Perombakan Kabinet Indonesia Bersatu II*. Diss. Universitas Islam Indonesia, 2013, 7-8.

<sup>30</sup> Article 6 letter e of the Statutes and Bylaws of the Indonesian Democratic Party of Struggle 2015-2020.

Bouchier's view, President Jokowi's connection to PDI-P under Megawati's leadership and his rejection of Islamic extremism also mark him as a member of the secular nationalist political spectrum.<sup>31</sup> Based on previous research reviews, Megawati Soekarnoputri is also viewed as identical to secular nationalist ideology. Thus, the political ideologies of Megawati Soekarnoputri and Jokowi are seen as identical to nationalist-secular, nationalist with secular tendencies."

### *Ideological Relations between Constitutional Judges and the President*

The independence and impartiality of constitutional judges become very important when faced with the influential political power of the party that appoints or selects constitutional judges.<sup>32</sup> In the context of this research, the question arises whether there is an ideological relationship between constitutional judges and the president who nominates them. The categorization of judges' considerations in deciding ideologically charged cases shows that overall, the sampling data of constitutional judges' considerations in judicial review cases with ideological content are predominantly moderate in nature.

During the 13 months since the Constitutional Court's establishment under President Megawati Soekarnoputri's administration, there were 11 moderate judicial considerations, 3 leaning-secular considerations, 1 secular consideration, and no considerations that were either leaning-Islamic or Islamic. The results of ideological mapping in constitutional judges' considerations were moderate and secular. This pattern of judicial considerations aligns with Megawati Soekarnoputri's political ideology, which is identically nationalist-secular. Thus, there is an ideological relationship between President Megawati's political ideology and the constitutional judges' ideology in their decision considerations.

During President Yudhoyono's early leadership period (October 20, 2004 - October 20, 2009), the mapping data of ideological decisions showed 1 secular judicial consideration, 9 leaning-secular judicial considerations, 33 moderate judicial considerations, 7 leaning-Islamic judicial considerations from government appointees, and 4 Islamic judicial considerations from government appointees. The data shows a comparison between Islamic and

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<sup>31</sup> David M. Bouchier, "Two Decades of Ideological Contestan ..., 723.

<sup>32</sup> Maruarar Siahaan, *Hukum Acara Mahkamah Konstitusi ...*, 46.

secular considerations of 10:11, or slightly more leaning-Islamic and Islamic considerations. If referring to the initial conclusion that President Yudhoyono's political ideology is identical to Nationalist-Islamic, then there is an ideological alignment between the constitutional judges' decisions and President Yudhoyono's ideology.

During President Jokowi's era (January 1, 2018 - January 31, 2023), the mapping results of considerations by constitutional judges nominated by the government showed 1 secular consideration, 3 leaning-secular considerations, 33 moderate considerations, 5 leaning-Islamic considerations, and 15 Islamic judicial considerations. These mapping results are quite surprising, showing an increasing number of Islamic and leaning-Islamic considerations by government-appointed constitutional judges, totaling 20 considerations, compared to only 4 secular and leaning-secular considerations. This data indicates that the ideology of President Joko Widodo's nominating political party, which is nationalist-secular, does not align with the constitutional judges' ideology in their decision considerations during this period.

## **CONCLUSION**

The ideological mapping of the Constitutional Court's ideologically charged decisions throughout the period from 2003 to 2009 and from 2018 to 2023 shows that the judges' considerations in their decisions were predominantly moderate. During the administrations of President Megawati and President Yudhoyono, there was an ideological relationship between the president's ideology and the constitutional judges they appointed. During President Megawati's era, ideologically charged decisions were dominated by moderate and secular (nationalist-secular) judicial considerations, while during President Yudhoyono's period, there was a dominance of moderate and Islamist (nationalist-Islamist) judicial considerations. Conversely, during President Jokowi's administration, who was nominated by a political party with a nationalist-secular ideology, the constitutional judges' considerations showed a dominance of moderate and Islamist considerations. The mapping data illustrates the dynamic patterns of constitutional judges' considerations in deciding judicial review cases with ideological content. Since the Constitutional Court's establishment until 2023, constitutional judges' considerations have shown an increasing use of Islamic legal principles or

values as the basis for legal considerations in deciding ideologically charged judicial review cases.

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