

CONSTRUCTIVE ETHICS OF JUDGES IN INDONESIA; PROBLEMS AND STRATEGIC STRENGTHENING

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ABSTRACT: The existence of judges has been positioned as a fundamental and influential instrument for law enforcement in Indonesia. The role of judges in examining, adjudicating and even deciding cases actually relies on ethics and morality which have been fully outlined by the Law and other derivative regulations. This study aims to unravel the ethical ideals of judges from a juridical perspective, the reality of ethical problems of judges and strategies to strengthen judges in Indonesia. This type of research uses library research or library research through a review of relevant library materials. The results of the study show that the scope of judge ethics includes personality ethics, ethics in carrying out their duties, ethics for colleagues or fellow judges and ethics towards society or seekers of justice which as a whole are intended as a means of progress and personality formation, as a means of social control, and as a guarantee increase in the morality of judges. Despite the fact, the ethics and morality of judges are faced with problems stemming from the weaknesses in the personality of judges internally and the tension and ineffectiveness of the supervisory system externally. Therefore, the realization of a strong oversight policy by involving the Supreme Court as internal oversight and the Judicial Commission as external oversight is a strategic answer to overcoming the decline in the integrity and morality of judges, and is supported by constructive efforts such as strengthening the essential performance of the Honorary Panel of Judges in examining and deciding alleged violations of the code of ethics, stimulated the performance of the liaison team and judge supervisory assistants, strengthened strict sanctions in line with reward and punishment policies and built responsive legal values and culture.

Keywords: Constructive; Judge Ethics; Problems; Strategic Strengthening

INTRODUCTION

Judges are the spearhead of an independent, neutral, competent, transparent and accountable court capable of upholding legal authority, legal protection, legal certainty and justice as a result of "law as a tool of social engineering" or as a result of the need for a judge's personality to have value. high integrity, as a logical consequence of the needs and demands of justice from justice seekers. That is, judges are the main pillars in upholding law and justice as well as the process of developing the nation's civilization.¹

¹Achmad Rifai, *Kesalahan Hakim dalam Penerapan Hukum pada Putusan yang Menciderai Keadilan Masyarakat* (Cet. 1; Makassar: CV. Nas Media Pustaka, 2020), h. 80

The honor and glory of judges is closely related to ethical behavior. The basic conception of ethical behavior as a set of principles or values relating to morals requires truth or error that is adhered to by certain communities with efforts to mature the soul which is aligned with the norms that apply in society. In principle, the code of ethics of judges places public trust and distrust in court decisions. Thus, judges are required to behave with noble character which places the profession of judges as a glory.²

In reality, understanding and mastering the roles, duties and functions and obligations of judges in a professional manner is very possible to produce judge decisions that contain elements of justice, benefits and legal certainty. Such a judge's decision seeks to reflect the sense of justice in society as it corresponds to the values contained in the Pancasila precepts as the manifestation and implementation of an independent judicial power.

The position of a judge cannot be separated from the constitutional basis of the 1945 Constitution of the Republic of Indonesia in CHAPTER IX of judicial power. Article 24 paragraph (1) of the 1945 Constitution states that the judicial power is an independent power to administer justice in order to uphold law and justice. Judges position themselves as actors or judicial figures, in fact they are on the axis of professional ethics. As Franz Magnis Suseno mentions, professional ethics can be upheld if there are 3 (three) main characteristics of morality, namely 1) Dare to act by being determined to act in accordance with the demands of the profession; 2) Aware of obligations, and 3) Have high ideals³

The Supreme Court in its instructions No. KMA/015/INST/VI/1998 dated 1 June 1998 instructed judges to strengthen professionalism in realizing quality trials with accountable judge decisions containing ethos (integrity), pathos (juridical considerations first and foremost), philosophical (core sense of justice and truth), and sociological (according to the prevailing cultural values in society), as well as logos (accepted by common sense), for the sake of creating the independence of the Judicial Power Organizers.⁴ Of course the function of law as mentioned above can be realized well if the existence of the law in its implementation is supported by a good law enforcer and is able to set an example in his behavior in society so that it can lead to the goal (of the function of law) to be achieved. So that with this exemplary community will also provide support by participating in complying with applicable legal provisions.⁵

On the other hand, after the unification of the judiciary in Indonesia, it is still considered unable to immediately resolve the issues that were placed in the judiciary. Problems with judicial

²Tarmizi, *Kode Etik Profesi tentang Hukum; Polisi, Hakim, Jaksa, Advokat/Penasehat Hukum, Pegawai Kemasyarakatan, Notaris, KPK, Panitera dan Jurus Sita, Arbiter dan Mediator dan Intelejen Negara* (Cet. I; Jakarta: Sinar Grafika, 2019), h. 24

³Adnan Murya dan Ucip Sucipto, *Etika dan Tanggungjawab Profesi* (Cet. I; Yogyakarta: Deepublish Publisher, 2019), h. 100

⁴Jonaedi Efendi, *Rekonstruksi Dasar Pertimbangan Hukum Hakim Berbasis Nilai-Nilai Hukum dan Rasa Keadilan yang Hidup dalam Masyarakat* (Cet. I; Jakarta: Prenada Media Group, 2018), h. 299

⁵Siti Chomarijah Lita Samsi, *Integritas Hakim dalam Memastikan Putusan Tindak Pidana Korupsi* (Cet. I; Yogyakarta: Deepublish Publisher, 2019), h. 12

institutions from organizational, administrative and financial aspects are general conflicts that are always attached to judicial institutions. However, the problem with the current justice system does not only lead to judicial institutions in Indonesia but culminates in the weak integrity of judges and the violation of the judge's code of ethics which has been outlined by the positivity of law in Indonesia.

In implication, even though there is a content of statutory regulations which are a reference for judges in handling and resolving cases. However, in the existence of judges as mouthpieces for judicial power in Indonesia, facts are found that cannot be denied that there are various factors that influence the implementation of the duties of judges, namely: a) Factors of legal substance; b) legal culture factors; c) legal awareness factor; d) Human Resources Capability Factor; and e) Family and household factors.⁶

PROBLEM

From the description of the background above, the problem raised is how constructive is the ethics of judges in Indonesia in solving problems and strengthening strategies?

RESEARCH METHODS

This research method in its application uses library research or library research. The library research method means that it is based on relevant library materials in the form of books, journals or articles, coverage and others. This type of research uses deductive methods. Thus, there are at least four main characteristics of literature research; 1) the researcher looks directly at the text (nash) without direct data from the field in the form of events or occurrences, people and other objects; 2) research is ready to use (ready made), meaning that researchers only come into contact with relevant literature through available theories and studies; third, library data is generally a secondary source, in the sense that research no longer obtains first-hand material or original data in the field; fourth, the condition of library data is not limited by space and time

DISCUSSION

The Ethical Ideality of Judges from a Juridical Perspective

The framework of a state based on law has placed the position and function of judges in the center of law enforcement in Indonesia. The profession of a judge is highly respected by various groups with complete authority to pass judgment on a case and cases based on the laws and regulations presented before him. A judge must act as the legislator of law in matters of laws and regulations. In other words, judges must adapt laws to concrete matters because statutory regulations are unable to cover all legal events that arise in society. The provisions of Article 14 paragraph (1) of the Law on Judicial Power explain that a court may not refuse to examine and try a case submitted on the pretext that the law does not exist or is unclear, but

⁶Margono, *Asas Keadilan Kemanfaatan dan Kepastian Hukum dalam Putusana Hakim* (Cet. I; Jakarta: Sinar Grafika, 2019), h. 15

instead arises an obligation to examine and try it in order to find a new law to fill in the legal void.⁷

The role of the judges mentioned above is fortified by the Code of Ethics and the Code of Conduct for Judges (KE & PPH) which has constructed 33 (thirty three) obligations, 37 (thirty seven) prohibitions, 5 (five) characteristics of judges and Tri Prasetya Judges of Indonesia , PANCA DARMA HAKIM,, and many others covering State Civil Servant Disciplinary Regulations, Oaths of Position/Promises of Position and so on.⁸ The code of ethics for the legal profession, including judges, includes the necessity and obligation to be responsible for actions and legal needs by not violating the rights of others. As a rule that must be used as a guideline for a judge, the code of ethics of judges must be implemented in the practice of daily life, both in the context of carrying out duties (in court), peer relations, relations with subordinates/employees, social relations, as well as family/family relations. household.

1. Judge Personality Ethics

According to the Joint Decisions of the Chairman of the Supreme Court of the Republic of Indonesia and the Chairperson of the Judicial Commission of the Republic of Indonesia Number 047/KMA/SKB/IV/2009 and 02/SKB/P.KY/IV/2009 concerning the code of ethics and guidelines for the behavior of judges, that the basic principles of the code of ethics and guidelines Judge behavior is implemented in 10 (ten) rules of conduct as follows: (1) behave fairly, (2) behave honestly, (3) behave wisely and wisely, (4) act independently, (5) have high integrity, (6) be responsible , (7) uphold self-esteem, (8) be highly disciplined, (9) behave humbly, (10) be professional. The Joint Decree of the Chairman of the Supreme Court of the Republic of Indonesia and the Chairman of the Judicial Commission of the Republic of Indonesia, in addition to setting out ten rules of conduct, also contains obligations and prohibitions for judges related to the image of their families: a) Protecting the family from disgraceful acts; b) according to the norms of the law of decency; c) Maintain peace and family integrity; and d) Adapting household life to the conditions and views of society⁹

2. Ethics in Performing Occupational Duties

Various laws and regulations regulate the code of ethics of judges in the form of patterns, procedures and guidelines for carrying out office duties. However, in principle, it has the duty to uphold law and justice on the basis of truth and honesty, being accountable to God Almighty,¹⁰ Furthermore, the ethics of the duties of a judge can be described as follows:

- a. In a trial, a judge must behave and act according to the lines specified in the applicable procedural law, taking into account the principles of good justice, namely: 1) upholding a person's right to a decision (right to a decision) in which everyone has the right to file a case and is prohibited from refusing to try it, unless otherwise stipulated by law and a

⁷Boy Nurdin, *Kedudukan dan Fungsi Hakim dalam Penegakan Hukum di Indonesia* (Cet. I; Bandung: PT. Alumni, 2012), h. 87

⁸Margono, *Asas Keadilan Kemanfaatan dan Kepastian Hukum dalam Putusana Hakim*, h. 94

⁹Wildan Suyuthi Mustofa, *Kode Etik Hakim* (Ed. II; Yogyakarta: Kencana Prenamedia Group, 2013), h. 146

¹⁰Dio Ashar W. Implementasi Kode Etik Dan Pedoman Perilaku Hakim dalam Peradilan Tindak Pidana Korupsi, <http://mappifhui.org/wp-content/uploads/2020/03/Implementasi-Kode-Etik-dan-Pedoman-Perilaku-Hakim-dalam-Peradilan-Tindak-Pidana-Korupsi.pdf>, Diakses 2 Desember 2022, h. 5

decision must be rendered within an appropriate time and not too long; 2) all parties to a dispute are entitled to the same opportunity and treatment to be heard, given the opportunity to defend themselves, submit evidence and obtain information in the examination process (a fair hearing); 3) decisions are carried out objectively without being tainted by personal interests or other parties (no bias) by upholding principles (*nemo iudex in resua*). Decisions must contain legal reasons that are clear and understandable and consistent with systematic legal reasoning (resonances and arguments of decision), where these arguments must be monitored (*controleer-baarheid*) and followed and accountable (accountability) in order to guarantee the nature of openness (transparency) and legal certainty (legal certainty) in the judicial process; 4) uphold human rights.

- b. It is not justified to show partiality or sympathy or antipathy towards the parties to the case, both in speech and behavior.
- c. Must be polite, firm, and wise in leading the trial both in speech and deed.
- d. Must maintain the dignity and solemnity of the trial, including being serious in examining, not harassing the parties either by word or deed.
- e. Earnestly seek truth and justice.¹¹

The position of a judge in court is not merely carrying out and seeking justice, but rather trying to overcome all obstacles and obstacles in order to achieve justice as required by law.¹² The main key to the duties of a judge's office is standing on the principles of independence and impartiality. According to the Bangalore Principles, these principles include: a) carrying out a judicial function on the basis of an assessment of facts; b) reject outside influences such as pressure from the public, colleagues, mass media, state institutions (executive or legislative and other institutions; and c) encourage, enforce, and enhance guarantees of independence in carrying out judicial duties both individually and e) maintain and demonstrate an independent image and promote high standards of behavior to strengthen public confidence in the judiciary.¹³ Therefore, judges must uphold ethics in their duties as a sub-system in the professionalism of judges.

3. Ethics of Relations between Colleagues or fellow judges

A judge whose main task is to examine, try and settle cases, then he will carry out this task in the form of an assembly even though it is possible to carry out trials with a single judge. Likewise, a judge cannot be separated from communicating with fellow judges. As fellow law enforcement officials, judges should: a) maintain and foster good cooperative relations between fellow colleagues; b) must have a sense of loyalty, tolerance and mutual respect between fellow colleagues; c) have awareness, loyalty, respect for the corps of judges; d) maintain the good name and dignity of colleagues, both inside and outside the service.¹⁴ In addition, judges as law enforcers must be able to be role models; then it must have leadership qualities, and be

¹¹Wildan Suyuthi Mustofa, *Kode Etik Hakim*, h. 144

¹²Salma, Urgensitas Etika Profesi Hakim dalam Penegakan Hukum di Indonesia, *Jurnal Pendidikan Islam: pendekatan Interdisipliner* I, No. 1 (2016), h. 10

¹³Muhammad Fahmi dkk, Pelanggaran Asas Imparsialitas Oleh Hakim Pengadilan Negeri Kupang Dalam Perkara 536/Pid.B/2008/PN.KPG, *Jurnal JOM Fakultas Hukum* 2, No 2 (2015), h. 5-6.

¹⁴Dewi Margareth Kalalo, Eksistensi Komisi Yudisial terhadap Pelaksanaan Kode Etik Profesi Hakim, *Jurnal Lex Crimen* 3, No. 1 (2014), h. 54

able to guide subordinates / employees to enhance knowledge. Judges must have the attitude of a good father/mother, and maintain a family attitude towards subordinates/employees and a judge must be able to set an example of discipline.¹⁵

4. Ethics for society or justice seekers

Access to justice for the community is greatly influenced by the situation and conditions of the court, not only the agenda and agenda indicators, trial administration, court support and facilities, and the atmosphere in the courtroom and outside the courtroom. However, the instrumental that is very supportive is the composition of the panel of judges and their ability through productivity in deciding community cases.¹⁶ On the other hand, the life of a judge is part of the surrounding community, therefore a judge must respect and value other people, not be arrogant, and not want to win alone. As part of the community, the simple life that is felt by the majority of the community must also be reflected in the judges themselves.¹⁷ In relation to this, the interaction of judges with society must also be maintained, because the position of judges in society is very vulnerable and crucial. Thus, a judge must avoid all things that can interfere with his integrity, including attending meetings and banquets with litigants.¹⁸ Furthermore, judges in all their activities must follow the norms that apply in society and adjust their decisions to the public interest. According to Cordozo that social power has an instrumental influence on judges in the formation of law, namely history, logic, customs, uses, and accepted standards of morality.¹⁹ The absolute requirement for a judge to act and behave for the community is to uphold the principle of equality before the law, the principle of reconciliation and other principles that guide judges in examining community cases so that they produce a final decision.²⁰

The existence of a code of ethics for judges or the profession of judges is as follows: 1) As a tool, namely to carry out coaching and character building of judges as well as to monitor the behavior of judges; 2) As a means of social control, preventing extra judicial interference and as a means of preventing the emergence of misunderstandings between fellow members and between members and the community; and 3) To provide more guarantees for increasing the morality of judges and functional independence for judges. 4) To foster public trust in the judiciary.²¹

Problems of Judge Ethics in Indonesia

The entity of judicial power by the judge is to produce a court decision. A qualified decision must fulfill 2 (two) conditions, namely: first, theoretical requirements and second, practical

¹⁵Wildan Suyuthi Mustofa, *Kode Etik Hakim*, h. 145

¹⁶Tim Penyusun (Komisi Yudisial Republik Indonesia), *Panduan Pemantauan Persidangan* (Cet. I; Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2018), 43-44

¹⁷Wildan Suyuthi Mustofa, *Kode Etik Hakim*, h. 146

¹⁸Abdul Manan, *Etika Hakim dalam Penyelenggaraan Peradilan; Suatu Kajian dalam Sistem Peradilan Islam* (Cet. III; Jakarta: Kencana (Divisi dari Prenamedia Group), 2015), h. 139

¹⁹Boy Nurdin, *Kedudukan dan Fungsi Hakim dalam Penegakan Hukum di Indonesia*, h. 93

²⁰Asni, Etika Hakim dalam Dinamika Masyarakat Kontemporer: Perspektif Peradilan Islam, *Jurnal Al-Adl* 8, No. 2 (2015), h. 11.

²¹Hakim, Peran Hakim dalam Penegakan Etika dan Profesi Hukum, *Jurnal Ecosystem* 16, No. 1 (2016), h. 9.

requirements. Fulfills the theoretical requirements, meaning that it is in accordance with the theory that has been tested for truth. A decision can be considered good and correct if it is in accordance with the theory. Fulfilling practical requirements, meaning that it is in accordance with the needs of practice in the field, namely being able to achieve the desired goal in the form of resolving disputes by upholding the law and a sense of justice, and can be practiced (implemented) so that what is the ultimate goal of a case is realized, a decision can be considered correct if it has met a practical need. In another perspective, the theoretical requirements are the *das sollen*, while the practical requirements are the *das sein*. If a decision has fulfilled the *das sollen* and *das sein*, or the theory and practice are in accordance, then that is a quality decision.²²

The judge's decision is a need for a sense of justice in society. The judge must ascertain the concrete events of the dispute that occurred which then determines the appropriate law in the court's container. However, it is clear that there are many judges' decisions whose poor quality is caused by defects in the behavior and moral ethics of judges. In fact, the existence of the court so far has increasingly shown the distortion of its main role as the last straggle for the *justisiabellen* in particular and the expectations of society in general. The role and mission of the court above the captain of the judge who should be fully independent in favor of loyalty to the values of justice and truth, has undergone many processes of significant decay. This condition has been experienced for a long time since the Old Order regime and was continued during the New Order era, whose destructive effects are still being felt today. Judicial power as a manifestation of the Republic of Indonesia and as a *rechtsstaat* has shown its role not as an independent judiciary, but rather as an instrument of authoritarian power.²³ Thus, public dissatisfaction with court decisions is largely due to the fact that judge decisions are often considered unfair, controversial and cannot even be legally executed. This condition requires public distrust of the integrity and personality of judges who are oriented towards their decisions.²⁴

Judges in carrying out their functions wear special clothing that has a functional meaning. This means that by wearing professional attire, judges are showing their way out of ordinary life and into a professional environment where all the norms and obligations of expertise and morals apply. In fact, the judge who presides over court proceedings in his royal attire does not reveal his professional identity, but often secretly accepts bribes by involving himself in major contradictions.²⁵ There has been a lot of public scrutiny that sees the duties of a judge, starting from the behavior of judges who fall asleep while carrying out their duties in the courtroom to

²² Jonaedi Efendi, *Rekonstruksi Dasar Pertimbangan Hukum Hakim Berbasis Nilai-Nilai Hukum dan Rasa Keadilan yang Hidup dalam Masyarakat*, h. 319

²³ Achmad Rifai, *Menggapai Keadilan dengan Hukum Progresif sebuah Upaya Menyempurnakan Putusan Hakim pada Keadilan* (Cet. I; Makassar: CV. Nas Media Pustaka, 2020), h. 9

²⁴ Risa Sylvy Noerteta, *Independensi Hakim dalam Tindak Pidana Korupsi (Tinjauan Perma Nomor 1 Tahun 2020 Jo. Undang-Undang Nomor 48 Tahun 2009)* (Cet. I; Jawa Timur: Global Aksara Pres, 2021), h. 60.

²⁵ K. Bertens, *Etika Profesi* (Jakarta: PT. Gramedia, 2020), h. 8

the emergence of the judicial mafia phenomenon which cannot be denied, there is the involvement of judges in the process of examining and deciding the case.²⁶

The reality of the profession of judges deviating from the code of ethics has been caught in several cases of abuse of authority which have been published in the media. It is realized that the practice of abuse of authority in the judiciary requires the public to distrust law enforcement officials, especially judges, as a vital instrument of law enforcement in Indonesia.²⁷ Alleged violations of the code of ethics of judges in Indonesia continue to occur in significant numbers. From the Judicial Commission's report in 2021, 494 public reports were received and 359 ransom letters for alleged violations of the Code of Ethics and Judges' Code of Conduct (KEPPH) during the first quarter of 2021 in the period January 4 to April 30.²⁸

Analytically, the alleged violation of the judge's code of ethics in the first quarter of 2021 provides an interesting illustration that the principles of the code of ethics and guidelines for the behavior of judges in their implementation have been neglected. Rejecting the report, it is also very possible that there will be an increase in violations of the judge's code of ethics in the next quarter. In addition, several studies state that the challenges faced by a judge in implementing the code of ethics and code of conduct of judges are: a) The judge does not fully understand the intent and method of implementing the code of ethics and code of conduct of the judge. b) Judges are not yet fully aware of the institutional administration that a judge should instill in carrying out the basic principles of the code of ethics and guidelines for the judge's behavior. c) Judges are not yet aware that the basis for ethics and behavior has been properly established.²⁹

The derivative aspect of the principle of the code of ethics of judges in Indonesia which is the most problematic is the phenomenon of the collapse of the independence and impartiality of judges. Thus, answering the judge's lack of integrity and incompetence is motivated by four subjective factors: 1) a priori attitude of behavior, namely the attitude of the judge who from the beginning has assumed that the accused being examined and tried is a person who is already guilty and should be punished; 2) emotional behavior, namely the court's decision will be influenced by the judge's behavior. Judges who have a temperament easily offended will be different from the temperament of judges who are not easily offended. Likewise, the decision of a judge who is easily angered and vengeful will be different from the decision of a judge who is patient; 3) The attitude of arrogance power, namely another attitude that influences a decision is "arrogance of power", here the judge feels himself to be powerful and smart, more than other people (prosecutors, defenders especially the accused); and 4) Moral, namely the

²⁶Umi Laili, Peran Komisi Yudisial dalam Pengawasan Pelanggaran Kode Etik dan Pedoman Perilaku Hakim, *Jurnal Legalitas* 2, No. 1 (2017), h. 17

²⁷Heny Pertiwi Gani dan Abdul Gani Abdullah, Mekanisme Penegakan Hukum terhadap Hakim yang Melakukan Pelanggaran Kode Etik di Mahkamah Konstitusi yang Memenuhi Unsur Pidana (Studi Putusan Nomor. 01/MKMK-SPL/II/2017), *Jurnal Hukum Adigama* 3, No. 1 (2020), h. 1178

²⁸https://www.komisiyudisial.go.id/frontend/news_detail/1454/ky-terima-laporan-dugaan-pelanggaran-kode-etik-hakim, Diakses tanggal 2 Desember 2021.

²⁹Sudirman, Implementasi Kode Etik dan Pedoman Perilaku Hakim di PTUN Makassar, *Jurnal Hukum Samudra Keadilan* 14, No. 2 (2019), h. 18

morale of a judge because after all a judge's personality is covered by behavior based on the judge's personal morality, especially in examining and deciding a case.³⁰

Enforcement of the code of ethics of judges has not experienced any real achievement, but there has been internal tension between judges and the Judicial Commission (KY) and the Supreme Court (MA) regarding the professionalism of judges within the framework of the code of ethics. The presence of a Joint Decree (SKB) between the Chief Justice of the Supreme Court and the Chairperson of the KY regarding the code of conduct of judges which legitimizes the KY to supervise and examine judges' decisions elicited a dilemmatic response by judges who considered the loss of independence guaranteed by the 1945 Constitution. According to Binsar M. Gulon, the judge's decision should only be judged by an appeal, cassation or PK level decision, even the Supreme Court and KY should discuss and reformulate the definition of the principle of professionalism of judges and the definition of the code of ethics of judges' behavior.³¹ In this regard, the presence of the Judicial Commission in the Indonesian constitutional system often creates thorny problems, because in addition to its function to maintain the dignity and honor of judges, it also has a supervisory function, so that it is often used negatively by certain parties to interfere with the independence of judges in deciding a matter. cases, even in some cases the losing party prefers to report the case examining judge to the Judicial Commission rather than take legal action.³² In principle, we agree that there should be no authority without supervision.

Strategic Strengthening of Judge Ethics in Indonesia

The basic conception of oversight of the justice system is intended: 1) to obtain information whether the technical administration of justice, the management of judicial administration, and the implementation of the general duties of justice have been carried out in accordance with the plan and the applicable laws and regulations; 2) Obtaining feedback for the policies, planning and implementation of judicial tasks; and 3) Prevent irregularities, mal-administration and inefficiency in administering justice; and 4) Assessing performance.³³

The implementation of supervision of judges and constitutional judges in carrying out their duties and functions is based on Law Number 48 of 2009 concerning Judicial Power, namely: 1) Internal Supervision by the Supreme Court In Law Number 14 of 1985 concerning the Supreme Court which has been amended by Law Law Number 5 of 2004 concerning Amendments to Law Number 14 of 1985 Jo. Law Number 3 of 2009 concerning the Second Amendment to Law Number 14 of 1985 concerning the Supreme Court stipulates that the Supreme Court is the highest state court of all jurisdictions, which in carrying out its duties is independent of government influence and other influences. Therefore the Supreme Court as the highest court structurally as well as one of the judicial institutions that has the authority to

³⁰Suparman Marzuki, Pengadilan yang Fair: Kecenderungan Pelanggaran Kode Etik dan Pedoman Perilaku oleh Hakim, *Jurnal Hukum Ius Quia Iustum* 22, No. 3 (2015), h. 411

³¹Binsar M. Gultom, *Pandangan Kritis Seorang Hakim dalam Penegkan Hukum di Indonesia* (Jakarta: PT. Gramedia Pustaka Utama, 2012), h. 5

³²Melfa Deu, Kode Etik dan Komisi Yudisial di Indonesia, *Jurnal Lex et Societatis* 3, No. 1 (2015), h. 51

³³https://www.ptunbandaaceh.go.id/?page_id=1736#:~:text=Menjaga%20agar%20pelaksanaan%20tugas%20lembaga,melaksanakan%20ugasnya%20dengan%20sebaik%2Dbaliknya. Diakses 2 Desember 2021

supervise the administration of justice including internal supervision of judges as administrators of justice. The supervisory authority of the Supreme Court is also enacted in Article 39 of Law Number 48 of 2009³⁴; and 2) External Supervision by the Judicial Commission as stipulated in the Law. No. 18 of 2011 concerning Amendments to Law no. 22 of 2004 concerning the Judicial Commission. Supervision carried out by the Judicial Commission is a normal, positive and constitutional mechanism with a democratic rule of law so that judicial power is not deviated or abused. According to Jimly Asshidiqqi, the establishment of a judicial commission outside the official structure of a parliamentary institution is meant to protect and uphold the honor and nobility of the dignity and behavior of judges.³⁵ Supervision of the authority of judges with internal control of court institutions and external outside the court institutions indicates the urgency of supervision imposed on law enforcement as a whole from the judge's environment. In application, internal and external controls should be able to elaborate through preventive and repressive actions as an inseparable unit.

In order to realize the implementation of efficient and adaptive supervision, it is necessary to continue to maximize the supervisory duties internally and externally, by the Supreme Court of the Republic of Indonesia and the Judicial Commission of the Republic of Indonesia.³⁶ As a strategic step for both, it is very necessary to develop cooperation, both those that have been implemented and those that have not been implemented:

1. Encouraging the Honorary Council of Judges in a comprehensive manner in examining the behavior of judges.
2. Improving the efficiency of the liaison team on the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia No: 211/KMA/SK/XII/2011 concerning the Formation of a Liaison Team for the Indonesian Supreme Court in the Framework of Cooperation between MA RI and KY RI and the assistance team on Decree of the Chief Justice of the Indonesian Supreme Court No: 211/KMA/SK/XII/2011 concerning the Formation of an Assistance Team for the Indonesian Supreme Court Liaison Team within the Indonesian Supreme Court Cooperation Framework.³⁷
3. Give strict sanctions to judges who have violated the code of ethics and code of conduct of judges along with giving awards to judges who excel through an open Reward and Punishment policy.

In addition, based on the KY analysis, there are two very instrumental factors that require judges to violate. First, the Supreme Court has not optimally implemented the integrity check mechanism in judge management. So the action on this issue, the Supreme Court must immediately actualize integrity checks in the process of appointing judges who take part in

³⁴Risa Sylvy Noerteta, *Independensi Hakim dalam Tindak Pidana Korupsi (Tinjauan Perma Nomor 1 Tahun 2020 Jo. Undang-Undang Nomor 48 Tahun 2009)*, h. 60

³⁵Farid Wajdi, *Pengawasan Hakim dan Penegakan Kode Etik di Komisi Yudisial* (Cet. I; Jakarta: Sinar Grafika, 2020), h. 61

³⁶Ria Maulina dkk, *Kajian Yuridis Mengenai Etika Profesi Hakim*, *Jurnal Hukum Positum* 6, No. 1 (2021), h. 2

³⁷Wahyu Ningsih dkk, *Hubungan Kewenangan Antara Mahkamah Agung dan Komisi Yudisial terhadap Pengawasan Etika Hakim dalam Perspektif Hukum Islam*, *Al-Imarah: Jurnal Pemerintahan dan Politik Islam* 4, No. 2 (2019),h. 7-8.

training, transferring judges to binding for the promotion of court leaders. Consciously the integrity check policy is a preventive measure for the seeds of larger judge violations while still taking into account the cognitive and capacity of judges. Second, conducting integrity training to judges on a regular basis. The facts revealed in the examination of judges conducted by KY, it is known that there were a number of people who did not understand at all that what they were doing was a violation of ethics. This misunderstanding is because the judge has not had the opportunity to receive integrity coaching in the form of ethics training from anywhere.³⁸

According to Sri Sutatiek, the judge's strategic steps in moral accountability in the context of creating quality decisions are spelled out in: 1) Believing that carrying out work as a judge is part of service and worship; 2) Believing that decisions made will be accountable to God in life after death; 3) Believing that the court decision made will be evaluated by all components of society; 4) Appreciate and implement the code of ethics and code of conduct of judges; 5) Comprehensive and holistic understanding of the substance of the case being examined, tried and decided; 6) Understand and analyze the law in laws and regulations and laws that live in society which are used as a basis in examining, adjudicating and deciding cases; 7) Striving for the discovery of law and the appreciation of a sense of justice; 8) Perform rational reasoning in applying the law to a case through the process of examining, adjudicating and deciding cases; 9) Conduct a self-assessment (self-assessment) on its performance consistently; 10) "Maintain" association within and outside the family environment.³⁹

Furthermore, the basis and reference for the reconstruction of the culture of judges in handling judicial cases is very relevant to the strengthening of progressive law. This is based on the results of studies showing that the values of the old legal culture under the legal-positivism paradigm have experienced a decline and failure to present laws that are fair, humane, responsive and protect the interests of society. So that the reconstruction of competency strengthening in the practice of morality and ethics includes a) the reconstruction of a progressive legal way of thinking; b) reconstruction of progressive legal interpretation methods, da c) reconstruction of the professional ethics of judges who are progressive in carrying out the law. Therefore, the old legal culture values need to be criticized, renewed and/or replaced with progressive and responsive legal cultural values according to various challenges and legal issues that require complex answers.⁴⁰

CONCLUSION

Judges play a vital role in law enforcement in Indonesia which is always bound by the principles of a code of ethics and guidelines for the behavior of judges (KE & PPH) which are related to personality ethics, ethics in carrying out office duties, ethics among colleagues or

³⁸Farid Wajdi, https://www.komisiyudisial.go.id/frontend/pers_release_detail/77/dua-faktor-penyebab-pelanggaran-etika-hakim. Diakses 2 Desember 2021

³⁹Sri Sutatiek, Akuntabilitas Moral Hakim dalam Memeriksa, Mengadili dan Memutuskan Perkara Agar Putusannya berkualitas. *Jurnal Arena Hukum* 6, No. 1 (2013), h. 11-17.

⁴⁰M. Syamsuddin, *Konstruksi Baru Budaya Hukum Hakim Berbasis Hukum Progresif* (Cet. II; Jakarta: Kencana Prenada Media Group, 2015), h. 268

fellow judges and ethics for the community or justice seekers which functions as a tool for coaching and character building, a means of social control and a guarantee for increasing the morality of judges. But in reality, the ethics and morality of judges experience problems internally which are oriented towards the weak personality of judges and externally which are oriented towards the tension of the supervisory system. Thus, constructive efforts through strengthening the ethics of judges strategy must be carried out in responding to the decline in integrity and morality through the design of a strong oversight policy by involving the Supreme Court as internal supervisor and the judicial commission as external supervision with follow-up: a) encourage the pattern of performance of the Honorary Council of Judges as a whole are you serious ; b) boosting the performance of the liaison team and assistant team of judges; c) creating strict sanctions in line with reward and punishment policies, and d) building responsive legal cultural values.

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