

STRENGTHENING THE AUTHORITY OF THE JUDICIAL COMMISSION IN UPHOLDING THE ETHICS OF JUDGES IN INDONESIA

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ABSTRACT

This study aims to analyze the effectiveness of the authority of the Judicial Commission (KY) in the enforcement of the ethics of judges in Indonesia and propose an ideal construction to strengthen the authority of this institution. The KY, which is regulated by the 1945 Constitution and related laws, has an important role in maintaining the integrity of judges through supervision and recommendation of sanctions, but is constrained by limited authority that is limited to recommendations to the Supreme Court (MA), which is often not followed up. Through a doctrinal approach and qualitative analysis of primary, secondary, and tertiary data, this study examines the challenges faced by the KY in carrying out its duties, and offers a solution in the form of granting greater authority in imposing direct sanctions on judges who violate the code of ethics. This research is expected to make a theoretical and practical contribution in strengthening a clean and transparent judicial system in Indonesia.

Keywords: *Judicial Commission, Enforcement of Judge Ethics, Authority*

INTRODUCTION

The Judicial Commission (KY) is one of the state institutions that has a crucial role in maintaining and upholding the honor and dignity of judges in Indonesia. Its formation is a response to various problems faced by the judiciary, especially related to ethics and the independence of judges. The Constitutional Court is regulated in Article 24B of the 1945 Constitution as an independent institution with authority that includes proposing the appointment of supreme court justices and supervision of judges' behavior. However, the authority of the Supreme Court in enforcing judicial ethics is often limited and ineffective in achieving its main goal, which is to create a judicial system that is clean and free from abuse of authority.

Initially, the idea of establishing the KY began in 1986 when the government planned the formation of the Judge Research Advisory Council (MPPH), which was tasked with providing considerations related to the appointment, promotion, and dismissal of judges. However, the idea did not develop further until finally the KY was officially formed through an amendment to the 1945 Constitution and further regulated in Law No. 22 of 2004 which was later amended by Law No. 18 of 2011. The establishment of the KY is expected to improve the judicial system by introducing a checks and balances mechanism in the judiciary. The KY as an independent institution has two important functions, namely as a judge recruitment institution that is free from political intervention and as an institution that maintains the ethics of judges. However, in its implementation, the KY often faces obstacles in exercising its authority. One of the main challenges is the limited authority of the KY in terms of imposing sanctions on judges who violate the code of ethics. In accordance with Article 22D of Law No. 18 of 2011, the KY can only provide sanctions recommendations to the Supreme Court (MA), which in some cases are not followed up. This creates ineffectiveness in enforcing the judge's code of ethics.

Examples of this ineffectiveness can be seen in cases involving judges who are entangled in

code of ethics violations, but sanctions recommendations from the Supreme Court often do not receive an adequate response from the Supreme Court. In the annual KY report, it was recorded that in 2021 there were 1346 reports of alleged violations of the judge's code of ethics received, but only a small part of the sanctions recommendations were followed up by the Supreme Court. This phenomenon shows that there are problems in the coordination and effectiveness of the implementation of the authority of the KY in the enforcement of judge ethics.

In addition, the judge recruitment system is also one of the aspects that received attention in this study. The recruitment process for supreme court justices and non-career judges carried out by the KY, although expected to create judges with integrity, is often seen as lacking in transparency and accountability. Openness in this recruitment process is very important because the selection of the right judges will affect the quality and integrity of the judiciary in Indonesia. Therefore, an in-depth study is needed on how the judge recruitment system can be improved in accordance with the principles of openness and public participation.

Effective enforcement of judge ethics is indispensable to ensure judicial independence and public trust in the judicial system. One way to strengthen the enforcement of judges' ethics is to give greater authority to the KY in terms of imposing sanctions on judges who violate the code of ethics. This authority is expected to increase accountability and transparency in the judicial system, as well as provide a deterrent effect for judges who violate the code of ethics. The challenge in upholding the ethics of judges lies not only in the authority of the Supreme Court, but also in the supervision carried out by the Supreme Court and other judicial institutions. Therefore, it is important to reconstruct the authority of the Supreme Court so that this institution can function optimally in maintaining the integrity and morality of judges. This research aims to identify obstacles in the enforcement of judge ethics and provide constructive recommendations to strengthen the role of the KY in creating a clean and transparent judicial system.

Through this research, it is hoped that it can contribute both theoretically and practically in strengthening the authority of KY. By strengthening the authority of the KY, especially in terms of imposing direct sanctions on judges who violate the code of ethics, it is hoped that a fairer and more integrity judicial system can be created. This research is also expected to be a reference for policymakers to carry out reforms in the judicial system in Indonesia, so as to create a better legal environment that can be trusted by the public.

RESEARCH METHODS

Penelitian hulum describes the activities of melmbelrikan solulsi that are late telrhada isul ataul pelri's problems. This study uses a doctrinal approach with a focus on normative analysis of regulations related to the authority of the Judicial Commission (KY) in enforcing the ethics of judges in Indonesia. This approach aims to link the norms contained in the 1945 Constitution, Law No. 18 of 2011 concerning the Judicial Commission, and other related regulations, with applicable legal practice. The data used in this study consisted of primary legal materials such as laws and regulations, secondary materials in the form of legal theory literature and previous research results, and tertiary materials such as legal dictionaries and encyclopedias. The analysis method used is a qualitative analysis to describe the effectiveness of the authority of the Supreme Court in the enforcement of judicial ethics as well as the ideal construction of the authority of the Supreme Court

in the Indonesian judicial system.

RESULTS AND DISCUSSION

This discussion highlights the important role of the Judicial Commission (KY) in maintaining the integrity and ethics of judges in Indonesia. The KY was formed based on Article 24B of the 1945 Constitution with the aim of creating a clean judicial system through supervision and proposing the appointment of supreme court justices. In carrying out its duties, the KY is faced with various challenges, including limited authority in enforcing sanctions for judges who violate the code of ethics. The authority of the Supreme Court is currently limited to providing recommendations to the Supreme Court (MA), which is often not followed up, thus weakening its effectiveness in maintaining judicial ethics. The supervision system carried out by the KY is very crucial in creating a checks and balances mechanism in the judiciary. However, the implementation of this supervision faces major obstacles, especially since the final decision on the KY's recommendations is in the hands of the Supreme Court. This creates a gap in the enforcement of the code of ethics, as seen from the 2021 KY report, where out of 1346 reports of violations, only a small percentage of sanctions recommendations were received by the Supreme Court.

One of the main problems in the implementation of the authority of the KY is the lack of accountability and transparency in the sanctions enforcement process. For example, in the case of Ronald Tannur, the KY's recommendations are not immediately followed up by the Supreme Court, even though the evidence of violations is clear. This situation shows the weak coordination between the KY and the Supreme Court and shows the urgent need to strengthen the position of the KY in the judicial structure. The KY also has a role in ensuring that the recruitment process for judges is carried out in a transparent and accountable manner. This process is important because the quality of judges greatly determines the integrity of the judicial system. However, in practice, this process often involves less public participation and is not fully open, leading to criticism of the effectiveness of KY's recruitment system.

The limited authority of the KY is one of the main causes of the ineffectiveness of this institution in upholding the ethics of judges. Article 22D of Law No. 18 of 2011 limits the KY to the recommendation function only, while the execution of sanctions is in the hands of the Supreme Court. This reduces the pressure of the Supreme Court in enforcing the code of ethics, as recommendations are often ignored by the Supreme Court for technical, judicial or procedural reasons. In this context, reform of the authority of the KY is important to ensure that this institution can carry out its functions effectively. One of the steps that can be taken is to give the KY the authority to impose direct sanctions on judges who violate the code of ethics, without the need to go through the approval of the Supreme Court. Thus, the KY can be more effective in ensuring compliance with the code of ethics and providing a deterrent effect for violating judges.

In addition, the independence of the KY as a state institution must be guaranteed to ensure that supervision of judges is carried out objectively and free from political intervention or other institutions. This increase in independence will also strengthen the position of the KY as the guardian of the integrity of the judicial system in Indonesia. The supervision carried out by the KY needs to be supported by a stronger and more systematic mechanism to increase transparency and accountability in the judicial system. The KY needs to be given wider access to investigate ethical

violations and has the authority to follow up on the results of the investigation independently.

By strengthening the authority of the KY, it is hoped that a more transparent, accountable, and free judicial system can be created from practices that are detrimental to justice. This research provides the view that reforming the authority of the Supreme Court is an urgent and strategic step to create an independent and integrity judiciary in Indonesia. These reforms are not only important to improve the effectiveness of institutions, but also to improve public trust in the justice system in Indonesia. In the context of strengthening the authority of the Judicial Commission (KY) to uphold the ethics of judges in Indonesia, supervision theory plays a very important role. Supervision theory explains that supervision is an important control mechanism in any government system to ensure that actions taken by institutions or individuals are in accordance with applicable legal rules. In this case, supervision of the behavior of judges is very important to maintain the integrity of the judiciary and prevent ethical violations that can damage the image of the judicial system itself.

Surveillance theory, as explained by experts, requires control that is not only internal but also external. Internal oversight is carried out by institutions that have direct authority over judges, such as the Supreme Court (MA), while external oversight is carried out by independent institutions such as the Judicial Commission. This external supervision aims to reduce the potential for abuse of authority that may occur if supervision is only carried out by internal institutions that have a direct interest in the supervised judge. In this case, the KY has a very strategic position to carry out external supervision of the behavior of judges, including in terms of enforcing judge ethics. However, in accordance with the theory of supervision, the effectiveness of external supervision will only be achieved if the institution conducting supervision has sufficient authority to follow up on the results of the supervision. This is in line with the main problem faced by the KY in carrying out its duties, namely the limitation of authority in enforcing the ethics of judges. Although the Supreme Court can supervise the judge's behavior and make sanctions recommendations, the final decision remains in the hands of the Supreme Court. This poses a dilemma because the KY's recommendations are often ignored, which in turn lowers public confidence in the independence of the judicial system.

Supervisory theory emphasizes that to achieve effectiveness, supervision must be carried out by giving sufficient authority to supervisory agencies, so that they can act immediately on findings of violations without having to rely on the decisions of other parties. In the context of KY, giving the authority to impose sanctions directly on judges who violate the code of ethics without the need to go through the Supreme Court's recommendations will strengthen the supervisory function of KY. This will have a greater impact on maintaining the ethics of judges and increasing the accountability of the judicial system. In theory, by giving greater authority to the KY, this institution can function more effectively as an external supervisor that is not only limited to providing recommendations, but also taking actions that can directly affect the behavior of violating judges. This strengthening of authority is in line with the principle of supervision that ensures independent and effective control, which is indispensable in creating a judicial system that is free from interference and corruption. By strengthening the authority of the KY in enforcing the ethics of judges, a better balance can be created between external and internal supervision. The Supreme Court, as an institution that has the authority to impose sanctions, will still have an important role, but the Supreme Court as an independent institution needs to be given more authority to ensure that any ethical violations can be followed up firmly and quickly. This will strengthen the system of checks and balances in the

judiciary, which will ultimately lead to the creation of a cleaner and more reliable judiciary.

Within the framework of supervision theory, strengthening the authority of the Supreme Court is not only important to improve supervision of judges, but also to optimize the role of the Supreme Court in maintaining the honor of judges and the judicial system as a whole. The granting of greater authority to the KY is expected to overcome the problem of ineffective supervision that has occurred so far and provide a deterrent effect for judges who violate the code of ethics. This strengthening will also increase public trust in the judicial system in Indonesia, which has often been underestimated due to the lack of accountability in enforcing the ethics of judges.

CONCLUSION

Strengthening the authority of the Judicial Commission (KY) in upholding the ethics of judges is very important to create a cleaner, more transparent, and accountable judicial system in Indonesia. Although the Criminal Court has a strategic role in overseeing the conduct of judges, its limited authority, especially in terms of imposing sanctions, reduces the effectiveness of this institution. Therefore, giving greater authority to the KY to impose direct sanctions on judges who violate the code of ethics, without having to go through the Supreme Court's recommendations, will strengthen the system of checks and balances in the judiciary and improve the integrity of the judicial system. This strengthening of authority is also expected to improve public trust in the judiciary, as well as encourage the creation of judges with integrity and maintain the dignity of the judiciary in Indonesia

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