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The Importance of Enhancing the Role of the Judicial Commission in Enforcing the Code of Ethics and Guidelines for Judicial Conduct

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Original Article

Abstract

The Judicial Commission is a state institution responsible for upholding and enforcing the code of ethics and conduct for judges, as mandated by Law Number 18 of 2011, which amended Law Number 22 of 2004. The Judicial Commission plays a crucial role in safeguarding judicial integrity through oversight based on the Code of Ethics and Guidelines for Judges' Conduct, as outlined in the Joint Decree of the Chief Justice of the Supreme Court and the Chairperson of the KY, Number 047/KMA/SKB/IV/2009 in conjunction with 02/SKB/P.KY/IV/2009. Despite these efforts, instances of judicial misconduct remain prevalent, highlighting the necessity of strengthening the Judicial Commission's role. This study aims to evaluate the effectiveness of the current measures and propose strategies to enhance the Judicial Commission's authority in supervising judges. Employing a normative legal research methodology, the study examines relevant regulations and decisions pertaining to the Judicial Commission. The findings indicate a critical need to expand the Judicial Commission's scope and role, including refining mechanisms for oversight and enforcement of the code of ethics, to mitigate judicial misconduct and prevent abuses of authority.

Keywords: *Role, Judicial Commission, Judge, Code of Ethics*

Abstrak

Komisi Yudisial (KY) merupakan lembaga negara yang bertugas menjaga dan menegakkan kode etik serta perilaku hakim sesuai dengan Undang-Undang Nomor 18 Tahun 2011 tentang Perubahan atas Undang-Undang Nomor 22 Tahun 2004. KY berperan penting dalam memastikan integritas hakim melalui pengawasan berbasis Kode Etik dan Pedoman Perilaku Hakim, sebagaimana tertuang dalam Keputusan Bersama Ketua Mahkamah Agung dan Ketua KY Nomor 047/KMA/SKB/IV/2009 jo. 02/SKB/P.KY/IV/2009. Namun, kasus penyelewengan hakim masih sering terjadi, menunjukkan perlunya penguatan peran KY. Penelitian ini bertujuan mengevaluasi efektivitas upaya yang telah dilakukan serta mengidentifikasi strategi penguatan kewenangan KY dalam mengawasi hakim. Menggunakan metode yuridis normatif, penelitian ini menganalisis regulasi dan putusan terkait KY. Hasilnya menunjukkan bahwa penguatan lingkup dan peran KY diperlukan, termasuk peningkatan mekanisme pengawasan dan penegakan kode etik, untuk meminimalkan pelanggaran wewenang oleh hakim.

Kata kunci: *Peran, Komisi Yudisial, Hakim, Kode Etik*

1. INTRODUCTION

The establishment of the Judicial Commission (KY) originated from discussions by the Judges' Research Advisory Council in 1968, which proposed the need for a body to provide recommendations regarding the appointment, promotion, transfer, dismissal, and disciplinary actions of judges in Indonesia.¹ The creation of the Judicial Commission as an institution with the authority to uphold the honor, dignity, and ethical behavior of judges, as mandated by Law Number 18 of 2011 (amending Law Number 22 of 2004), represents a significant step toward ensuring the independence of judicial power. The KY is thus positioned as a pillar of state institutions tasked with safeguarding the judiciary's integrity. The Judicial Commission's authority is detailed in Article 13 of Law Number 18 of 2011, which grants it the power to:²

- a) Propose the appointment of Supreme Court justices and ad hoc judges at the Supreme Court to the House of Representatives (DPR) for approval;
- b) Maintain and uphold the honor, dignity, and behavior of judges;
- c) Establish the Code of Ethics and/or Guidelines for Judges' Behavior in collaboration with the Supreme Court; and
- d) Enforce the Code of Ethics and/or Guidelines for Judges' Conduct.

As of September 2023, the Judicial Commission had received 1,592 public reports and 1,062 copies of letters concerning violations of the Code of Ethics and Guidelines for Judicial Conduct (KEPPH), with regular trial monitoring conducted monthly. The KY operates within a system of checks and balances, a mechanism designed to prevent government overreach and safeguard individual rights within Indonesian society.³

Judges play a central role in the judiciary, acting as representatives of divine justice by delivering legal decisions that ensure fairness and uphold societal order. Judicial power is inherently independent, grounded in constitutional principles of law enforcement, which aim to maintain and reinforce the rule of law. According to Arief Sidharta, judges bear significant responsibility in their duties, as their decisions profoundly impact the lives of those subject to the law.⁴ Judicial decisions must meet the criteria of certainty, utility, and justice, reflecting a systematic approach to upholding legal norms. The phrase "man behind the gun" highlights the critical role judges play in ensuring justice within the legal framework.⁵

¹ Farid Wajdi, "Tugas, Fungsi, Dan Kewenangan Komisi Yudisial Republik Indonesia," in *Prosiding: Sinergitas Mahkamah Agung Dan Komisi Yudisial Dalam Mewujudkan Excellent Court*, ed. Astika Nurul Hidayah and Ika Ariani Kartini (Purwokerto: UMP Press, 2017), 5–10.

² Fenny Tria Yunita et al., "Penguatan Kewenangan Komisi Yudisial Di Indonesia: Perspektif Konstitusional Dan Kontekstual," *Jurnal Kajian Konstitusi* 1, no. 1 (2021): 1–25, <https://doi.org/10.19184/jkk.v1i1.23822>.

³ Farid Wajdi, Imran Imran, and Muhammad Ilham Hasanuddin, *Pengawasan Hakim Dan Penegakan Kode Etik Di Komisi Yudisial* (Jakarta: Sinar Grafika, 2022).

⁴ Suhrawardi K. Lubis, *Etika Profesi Hukum*, 5th ed. (Jakarta: Sinar Grafika, 2008).

⁵ Sivana Amanda Diamita Syndo, "Menyoal Efektivitas Kode Etik Hakim Dalam Menjaga Marwah Kualitas Putusan Yang Berkeadilan," *Verfassung: Jurnal Hukum Tata Negara* 1, no. 2 (2022): 101–22, <https://doi.org/10.30762/vjhtn.v1i2.178>.

In a legal state, often referred to as *conditio sine qua non*, courts operate on principles of independence, neutrality, transparency, accountability, and authority to ensure effective enforcement and protection of the law. Judges, as key actors, are expected to exercise conscience and moral integrity in delivering justice, as encapsulated in the fifth principle of Pancasila. Court decisions, bearing the phrase “For Justice based on the Almighty God,” aim to align with both human and divine accountability. Moreover, judges are bound by a code of ethics established under the Joint Decree of the Chief Justice of the Republic of Indonesia and the Chairperson of the Judicial Commission (Number 047/KMA/SKB/IV/2009 in conjunction with 02/SKB/P.KY/IV/2009).⁶

Despite these measures, misunderstandings persist among the public regarding judicial decisions. This underscores the urgency of studying the ethics of the judicial profession and strengthening the authority of the Judicial Commission. The objectives of this study are as follows:

- 1) To understand the function and role of the Judicial Commission in maintaining and upholding the honor, dignity, and behavior of judges, thereby establishing the KY as a credible institution for judicial accountability.
- 2) To enhance the integrity and capacity of judges while promoting institutional strengthening and empowering public participation.

2. RESEARCH METHODOLOGY

This research employs a normative legal approach, focusing on the analysis of legal norms applicable in Indonesia as stipulated by existing laws and regulations. The method emphasizes the examination of legal documents, court decisions, and other legal materials to understand the essence, scope, and objectives of the legal norms established by the government concerning the Judicial Commission. This approach enables the researcher to gain deeper insights into the implementation of the Code of Ethics and Guidelines for Judges’ Conduct (KEPPH) enforced by the Judicial Commission.

The study adopts a qualitative approach to explore the phenomena experienced by the research subjects. It describes findings in words and language within a specific natural context, utilizing various qualitative methods. The primary data sources include laws and regulations related to the Judges’ Code of Ethics, the role and position of the Judicial Commission, and the Joint Decree of the Chief Justice of the Republic of Indonesia and the Chairperson of the Judicial Commission of the Republic of Indonesia (Number 047/KMA/SKB/IV/2009 in conjunction with 02/SKB/P.KY/IV/2009) concerning the Code of Ethics and Guidelines for Judges’ Behavior. Secondary data are derived from literature and other relevant references.

⁶ Basyarudin Basyarudin, “Pelanggaran Kode Etik Hakim Berdasarkan Keputusan Bersama Ketua Mahkamah Agung Republik Indonesia Dan Ketua Komisi Yudisial Republik Indonesia,” *Armada: Jurnal Penelitian Multidisiplin* 1, no. 1 (2023): 41–49, <https://doi.org/10.55681/armada.v1i1.363>.

3. RESEARCH RESULT AND DISCUSSION

3.1. Efforts by the Judicial Commission to Ensure Judges' Compliance with the Code of Ethics and Guidelines

Judges serve as the primary agents in the judicial process, tasked with delivering justice and enforcing the law effectively for society. As arbiters of justice, judges are bound by moral values and the code of ethics to prevent deviations in the resolution of legal cases within judicial institutions. Professional ethics are defined as norms, terms, and conditions that individuals in a specific field must adhere to in order to be recognized as professionals. According to Abdul Kadir Muhammad,⁷ a code of ethics is a collection of moral principles or values that function as behavioral norms. These principles serve as a professional guideline for judges, ensuring their adherence to regulations and maintaining their dignity.

The Code of Ethics and Guidelines for Judges' Behavior (KEPPH), as outlined in Article 1, Clause 6 of Law Number 18 of 2011 (amending Law Number 22 of 2004 on the Judicial Commission), is a framework designed to uphold the honor, integrity, and conduct of judges in both their judicial responsibilities and social interactions.⁸ The role of judges, as central figures in the judicial system, is strategically outlined in legislation to align with the vision and mission of the judiciary. Judges are expected to demonstrate integrity and provide meaningful contributions to society. Sajipto Rahardjo⁹ highlighted that courts are susceptible to unethical practices, such as decision trading, emphasizing the need for robust oversight of judicial conduct.

The judiciary encompasses general, religious, and administrative courts under the Supreme Court's jurisdiction.¹⁰ Judges, including Ad Hoc Judges, play a pivotal role in ensuring justice within these systems. The Code of Ethics and Guidelines was established through a Joint Decree by the Chief Justice of the Republic of Indonesia and the Chairperson of the Judicial Commission of the Republic of Indonesia (Number 047/KMA/SKB/IV/2009 in conjunction with 02/SKB/P.KY/IV/2009), outlining 10 regulatory principles for judges:¹¹

- 1) Fair Conduct. Judges are required to render decisions impartially, ensuring that every individual is treated equally before the law. This principle fosters equal treatment and opportunities (equality and fairness) for all.

⁷ Abdulkadir Muhammad, *Etika Profesi Hukum*, 4th ed. (Bandung: PT Citra Aditya Bakti, 2014), <https://citraaditya.com/product/etika-profesi-hukum/>.

⁸ Imran Imran, "Pelanggaran Kode Etik Dan Pedoman Perilaku Hakim," *Jurnal Yudisial* 12, no. 1 (2019): 1–15, <https://doi.org/10.29123/jy.v12i1.379>.

⁹ Sajipto Rahardjo, *Penegakan Hukum Progresif* (Jakarta, 2010), PT. Elex Media Komputindo.

¹⁰ Rubiyanto Rubiyanto, "Kewenangan Komisi Yudisial Dalam Melakukan Tugas Pengawasan Terhadap Kinerja Hakim Di Lingkungan Pengadilan," *Jurnal Ilmiah Hukum Dan Dinamika Masyarakat* 14, no. 2 (2017): 162–72, <http://dx.doi.org/10.56444/hdm.v14i2.633>.

¹¹ Bunyamin Alamsyah, "Kedudukan Dan Wewenang Komisi Yudisial Dalam Sistem Ketatanegaraan Indonesia" (Universitas Islam Indonesia, 2010), <https://dspace.uui.ac.id/handle/123456789/9423>.

- 2) **Honest Behavior.** Judges must demonstrate courage in distinguishing right from wrong. Honesty underpins a judge's strong character and awareness of the fundamental rights of individuals both within and beyond the courtroom.
- 3) **Wise and Prudent Conduct.** Judges are expected to possess a broad perspective, tolerance, careful deliberation, patience, and politeness. Such attributes ensure that their actions align with established legal norms.
- 4) **Independence.** Judges must act autonomously, free from external influence or interference, ensuring their decisions reflect impartiality and adherence to the law.
- 5) **High Integrity.** Judges must maintain a complete, authoritative, honest, and steadfast character, remaining loyal to ethical values and norms. Integrity reinforces their resilience against undue influence while fulfilling their duties.
- 6) **Responsibility.** Judges must uphold truth and justice by diligently performing their duties and exercising their authority to the best of their ability. They must also be willing to accept the consequences of their actions and decisions as a result of implementing this authority.
- 7) **Upholding Self-Esteem.** Self-esteem is an inherent aspect of human dignity. For judges, maintaining self-esteem involves consistently preserving their honor and integrity as judicial officers. This principle aims to strengthen the judge's character by ensuring that they uphold the dignity of their profession.
- 8) **High Discipline.** Judges must demonstrate discipline by fulfilling the trust and mandate given to them by society. This entails adhering to established norms and ethical standards to prevent any misuse of their entrusted responsibilities.
- 9) **Humility.** Humility is a vital quality in the judiciary, fostering awareness of one's limitations and countering arrogance. Judges demonstrate humility through simplicity, sincerity, and a respectful attitude while carrying out their duties.
- 10) **Professionalism.** Judicial professionalism is grounded in expertise derived from knowledge, skills, and broad insight. Professional conduct ensures judges produce effective and efficient work outcomes that align with the highest quality standards.

Article 32A, paragraph 2, stipulates that the Judicial Commission conducts external supervision of the behavior of Supreme Court Justices. As outlined in paragraph 4, this supervision pertains to the Code of Ethics and Guidelines for Judicial Conduct (KEPPH), which is jointly determined by the Judicial Commission and the Supreme Court, as stated in paragraph 3. The Code of Ethics and Guidelines was formalized in a joint decision signed by the Chief Justice of the Republic of Indonesia and the Chairperson of the Judicial Commission of the Republic of Indonesia through Decree Number 042/KMA/SKB/IV/2009 and Number 02/SKB/P.KY/IV/2009.

The Judicial Commission has implemented several measures to ensure compliance with The Code of Ethics and Guidelines. These include external supervision and control, such as receiving reports, conducting investigations, and imposing sanctions on judges who

violate the code of ethics.¹² Additionally, the Judicial Commission provides education and training to judges on applying KEPPH in their daily practices. Recommendations are also made to the Supreme Court regarding disciplinary actions against judges who fail to comply with the Code of Ethics and Guidelines. Another significant effort by the Judicial Commission involves publications and advocacy. These initiatives emphasize the importance of KEPPH in ensuring judges' adherence to ethical standards and integrity in law enforcement. These efforts highlight the critical role of ethics and integrity in maintaining the credibility and effectiveness of the judiciary.¹³

Amzulian Rifai, the Head of the Judicial Commission, stated that there was a proposal to impose sanctions on 42 judges. These included light sanctions for 15 judges, moderate sanctions for 10 judges, and severe sanctions for 17 judges. These recommendations were based on public reports regarding the ethical conduct of judges. This situation raises questions about the effectiveness of the implementation of professional guidelines and the Judicial Commission's role in maintaining the dignity and integrity of judges. In fulfilling its duties and responsibilities, the Judicial Commission must reflect its commitment to preserving the image of the judiciary. The role of a judge is a noble profession tasked with providing legal certainty, public benefits, and justice in a tangible and equitable manner.

3.2. The Urgency of Strengthening the Scope and Role of the Judicial Commission in Implementing the Code of Ethics and Guidelines

The Judicial Commission is an independent institution with the constitutional authority to uphold and maintain the dignity of judges, as stated in Article 24B, paragraph (1) of the 1945 Constitution of Indonesia.¹⁴ Its role is pivotal in fostering a judicial system that is independent, transparent, and participatory, thereby ensuring justice and upholding the honor of judges as state judicial officers.

The authority of the Judicial Commission has been clarified following the Constitutional Court's Decision No. 005/PUU-IV/2006, which delineated its scope to include supervising judicial behavior, recommending sanctions for judges, and proposing awards for judges in recognition of their contributions to the judiciary.¹⁵ Ethics is defined as the study of moral rights and obligations concerning what is good and bad. From a judicial perspective, ethics represents principles or values adopted by society that pertain

¹² Hardianto Djanggih, Nur Kautsar Hasan, and Nasrun Hipan, "Efektifitas Pengawasan Komisi Yudisial Dalam Mengawasi Kode Etik Profesi Hakim," *Kertha Patrika* 40, no. 3 (2018): 141–54, <https://doi.org/10.24843/KP.2018.v40.i03.p02>.

¹³ Ni Luh Ariningsih Sari, "Kewenangan Pengawasan Dan Advokasi Komisi Yudisial Terhadap Hakim Berdasarkan Undang-Undang No. 18 Tahun 2011 Perubahan Atas Undang-Undang No. 22 Tahun 2004 Tentang Komisi Yudisial," *Ganec Suara* 16, no. 2 (2022): 1591–99, <https://doi.org/10.35327/gara.v16i2.324>.

¹⁴ Bima Pratama Hakim, "Kajian Terhadap Fungsi Pengawasan Hakim Yang Dilakukan Oleh Komisi Yudisial Dihubungkan Dengan Pasal 24b Ayat (1) UUD 1945" (Universitas Pasundan, 2020), <http://repository.unpas.ac.id/51949/>.

¹⁵ Muhammad Hasan Basri, "Implikasi Putusan Mahkamah Konstitusi Terhadap Komisi Yudisial Dalam Pengawasan Etik Hakim : Studi Kasus Putusan Mahkamah Konstitusi 005/PUU-IV/2006," *Lex Renaissance* 6, no. 3 (2021): 520–537, <https://doi.org/10.20885/JLR.vol6.iss3.art7>.

to moral judgments of right and wrong. Behavior, in this context, is understood as actions or responses aligned with applicable legal norms.

In the judicial system, ethical behavior is codified in the Code of Ethics and Guidelines for Judges' Behavior (KEPPH) enforced by the Judicial Commission. KEPPH emphasizes attitudes and actions rooted in spiritual maturity and conformity with societal norms. Its implementation serves as a foundation for judges to establish public trust through their court decisions.

The Code of Ethics and Guidelines was developed based on considerations outlined in Article 32A in conjunction with Article 81B of Law No. 3 of 2009, which amends Law No. 14 of 1985 concerning the Supreme Court. These provisions mandate the Judicial Commission to contribute to the internal and external supervision of the judiciary, thus reinforcing its role in ensuring ethical conduct and maintaining the integrity of judicial institutions.¹⁶

The Code of Ethics and Guidelines for Judges' Behavior (KEPPH) is an essential standard for judges, with the Judicial Commission serving as its supervisory body. This requirement is articulated in People's Consultative Assembly Decree No. II/MPR/1999 on General Guidelines for State Policy, which emphasizes enhancing the moral integrity and professionalism of law enforcement officers to foster public trust and improve societal welfare. The Code of Ethics and Guidelines, as established, functions as both a legal framework and a benchmark for judges in performing their professional duties. Simultaneously, the Judicial Commission acts as the enforcer of legal and ethical standards within the judiciary.¹⁷

However, the role of the Judicial Commission is often misunderstood, as many individuals submitting reports lack detailed knowledge of its specific functions. The urgency of strengthening the Judicial Commission's role in implementing The Code of Ethics and Guidelines stems from the ethical conduct and behavior of judges, which serve as foundational principles guiding their responsibilities. Enhancing the scope and authority of the Judicial Commission in enforcing The Code of Ethics and Guidelines is crucial for maintaining the integrity and independence of the judiciary.

Strengthening this role involves the consistent application of The Code of Ethics and Guidelines as a vital instrument for preserving the dignity of judges. Ensuring adherence to a clear and consistent code of ethics will protect judges from external pressures or conflicts of interest that deviate from The Code of Ethics and Guidelines standards. The Judicial Commission can further bolster public trust by addressing shortcomings and abuses through effective mechanisms for processing complaints and reports of ethical

¹⁶ Edi Setiadi, "Hubungan Ideal Komisi Yudisial Dan Mahkamah Agung," *Wawasan Yuridika* 5, no. 2 (2021): 161–76, <https://doi.org/10.25072/jwy.v5i2.459>.

¹⁷ Kemas Abdul Somad, "Kedudukan Tap MPR RI Dalam Hierarki Peraturan Perundang-Undangan Indonesia," *Jurnal Ilmiah Universitas Batanghari Jambi* 15, no. 1 (2017): 75–82, <http://dx.doi.org/10.33087/jiubj.v15i1.201>.

violations. These mechanisms may include imposing appropriate sanctions, ranging from warnings to deactivation, for breaches of The Code of Ethics and Guidelines.¹⁸

Additionally, the Judicial Commission must play an active role in enhancing the quality of judges by providing education, training, and continuous professional development related to The Code of Ethics and Guidelines. This proactive approach ensures judges remain compliant with and committed to ethical standards.

To solidify its role, the Judicial Commission should also focus on developing clear written norms through legislation to reinforce its institutional strength. By doing so, the Commission can more effectively supervise judges and minimize potential abuses of power, thereby safeguarding the judicial system's integrity and fostering greater public confidence.

CONCLUSION

The Judicial Commission plays a vital role as a supervisory body within the judicial profession, overseeing judges who are key actors in the judicial institution. Following the Constitutional Court Decision No. 005/PUU-IV/2006, the Judicial Commission has been established as an independent state institution, equal to other state institutions within Indonesia's governance structure. Its authorities include proposing the appointment of Supreme Court Justices to the House of Representatives (DPR) and supervising the conduct of Supreme Court Justices and judges at lower levels.

To fulfill its mandate, the Judicial Commission must instill legal principles in judges, ensuring their decisions align with societal expectations of justice. The actions of judges are guided by the Code of Ethics and Guidelines for Judges' Behavior (KEPPH), a framework jointly developed by the Supreme Court and the Judicial Commission to ensure accountability in judicial conduct. Furthermore, the Judicial Commission actively seeks to shape the professional character of judges, as stipulated in the Joint Decree of the Chief Justice of the Republic of Indonesia and the Chief of the Judicial Commission of the Republic of Indonesia No. 047/KMA/SKB/IV/2009 and No. 02/SKB/P.KY/IV/2009 concerning KEPPH.

Based on the findings of this study, it is recommended that the role and scope of the Judicial Commission be strengthened to elevate its status alongside the Supreme Court and Constitutional Court. Expanding its authority is essential to ensure that its supervisory power extends beyond the ranks of judges to include the imposition of stricter sanctions and enhanced oversight. By doing so, the Commission can minimize abuses of judicial authority and reinforce the principle that judges, as representatives of justice, act with integrity and accountability.

To achieve these objectives, the 1945 Constitution of Indonesia particularly Article 24B, must be revised to strengthen the legal framework governing the Judicial Commission.

¹⁸ Debbie Silviany Hormati, "Kajian Yuridis Tentang Peran Komisi Yudisial Dalam Penegakkan Kode Etik Mengenai Perilaku Hakim," *Lex Privatum* 5, no. 8 (2017): 86–93, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/18212>.

These revisions should address both the scope and subject of its supervisory powers, thereby enhancing its effectiveness as an institution committed to upholding judicial integrity and ensuring justice for the Indonesian people. Strengthening the Judicial Commission's role is integral to promoting transparency, accountability, and public trust in Indonesia's judicial system.

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