

Judges' Code of Ethics in Deciding Cases

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ABSTRACT

Judges play a vital role in upholding justice and public trust within the judicial system. This study examines the importance of the Judges' Code of Ethics in Indonesia, emphasizing its influence on the accountability and integrity of judicial decisions. The primary objectives are to analyze how the code serves as a guideline for judges and to assess its impact on public confidence in the legal system. Utilizing a normative juridical research method, the study relies on both primary and secondary legal materials, including legislative documents and case studies. The research involves a comprehensive literature review and a legislative approach to understand the ethical standards expected of judges in their professional conduct. The findings reveal that adherence to the Judges' Code of Ethics is crucial for maintaining impartiality, avoiding conflicts of interest, and ensuring fair trial processes. Ethical violations can significantly undermine public trust, leading to skepticism regarding judicial impartiality and the effectiveness of the legal system. The study highlights that judges must conduct themselves with integrity, uphold the principles of justice, and avoid any actions that could compromise their role. In conclusion, the Judges' Code of Ethics not only serves as a regulatory framework for judicial behaviour but also acts as a foundation for public confidence in the judiciary. For the legal system to function effectively, it is imperative that judges adhere to these ethical standards, ensuring that their decisions are perceived as fair and just.

Keywords: code of ethics; case; decision.

Introduction

The ethics code of the legal profession in Indonesia is a norm or rule regarding ethics in carrying out a profession (Muhit, 2023). In this case, of course, the code of ethics must be obeyed, respected, and used as a guideline for everyone involved in it, this includes the functions, authority, duties, and services of the intended community. The professional code of ethics (ethics code) as a professional ethical norm, regulates how members of a profession perform their duties and functions as well as possible according to the demands of ethical values (ethos), moral values (mores), and even with the values of law and justice of the profession they carry out, so that they are truly professional in carrying out their professional functions (Nurul, 2017).

Judges' code of ethics is a very important guideline in the judicial system, serving as a reference to ensure that judges carry out their duties with integrity, objectivity and professionalism. In the context of deciding cases, this code of ethics plays a vital role in maintaining public trust in the judiciary (Jacob et al., 2022; Narindra et al., 2024; Raz, 2017). As the spearhead of law enforcement, judges have a great responsibility in deciding cases fairly and wisely. The principle of freedom of judges in carrying out their duties as parties to hear a case, can be interpreted that judges in carrying out the mandate of the 1945 Constitution of the Republic of Indonesia Article 24 Paragraph (1) as actors in the exercise of judicial power must not be intimidated by anything and / or pressured by anyone.

The obligation of judges to maintain the honor and dignity, as well as the behavior of judges as stipulated in laws and regulations must be implemented concretely and consistently both in carrying out their judicial duties and outside their judicial duties, because it is closely related to efforts to uphold law and justice (Casarosa et al., 2024; Joy, 2017; Lubis, 2024). Honor is the glory or good name that must always be maintained and defended properly by judges in carrying out court functions. The honor of judges is primarily seen in the decisions they make, and the considerations that underlie them, or the entire decision-making process that is not only based on statutory regulations, but also a sense of justice and wisdom in society. Like honor, dignity is a level of human dignity or noble self- esteem that should not only be owned, but also must be maintained and defended by judges through virtuous behavior.

The judicial profession has an ethical system that is able to create discipline and provide a value system boundary line that can be used as a guide for judges to complete their duties in carrying out their functions and carrying out their profession. This Code of Ethics and Code of Conduct for Judges is a guide to moral virtues for judges, both in carrying out their professional duties and in community relations outside the officialdom (Supreme Court of the Republic of Indonesia Padang Religious High Court, 2024).

Judges as human beings, who have a moral obligation to interact with their social community, are also bound by ethical norms and customary adaptations that apply in the social order of society. However, to ensure the creation of an independent and impartial court, it is also necessary to fulfill the adequacy of facilities and infrastructure for Judges both as law enforcers and as citizens. Therefore, it is the duty and responsibility of the community and the State to provide security for Judges and Courts, including adequate welfare, proper facilities and budget. Nevertheless, even though the above conditions have not been fully realized, this cannot be used as an excuse for Judges not to hold fast to the purity of carrying out their duties and responsibilities as

enforcers and guardians of law and justice that provide satisfaction to justice seekers and the public. Prior to the preparation of this Code of Ethics and Code of Conduct for Judges, the Supreme Court has conducted a study by taking into account input from Judges at various levels and judicial circles, legal practitioners, legal academics, and other parties in the community (Supreme Court of the Republic of Indonesia Padang Religious High Court, 2024).

In addition, it pays attention to the results of re-consideration of the guidelines that were first initiated at the 4th Extraordinary Congress of IKAHI in 1966 in Semarang, in the form of the Indonesian Judges' Code of Ethics and refined again at the XIII IKAHI National Conference in 2000 in Bandung. Furthermore, it was followed up at the 2002 Supreme Court Work Meeting in Surabaya which formulated 10 (ten) principles of the Code of Conduct for Judges which was also preceded by an in-depth study which included a comparison process with international principles, as well as similar regulations established in various countries, including The Bangalore Principles of Judicial Conduct. Furthermore, the Supreme Court issued the Judges'

Code of Conduct through Decree of the Chief Justice of the Republic of Indonesia Number: KMA/104A/SK/XII/2006 dated December 22, 2006, concerning the Judges' Code of Conduct and Decree of the Chief Justice of the Republic of Indonesia Number: 215/KMA/SK/XII/2007 dated December 19, 2007 concerning Guidelines for the Implementation of the Judges' Code of Conduct. (Supreme Court of the Republic of Indonesia Padang Religious High Court, 2024)

Likewise, the Judicial Commission of the Republic of Indonesia has conducted an in-depth study by taking into account input from various parties through Public Consultation activities held in 8 (eight) cities whose participants consisted of elements of judges, legal practitioners, legal academics, and elements of society including non-governmental organizations. Based on the aforementioned considerations and in compliance with Article 32A in conjunction with Article 81B of Law Number: 3 of 2009 concerning the Second Amendment to Law Number: 14 of 1985 concerning the Supreme Court, a Code of Ethics and Code of Conduct for Judges was drafted which is a guideline for Judges throughout Indonesia as well as a guideline for the Indonesian Supreme Court and the Indonesian Judicial Commission in carrying out internal and external supervisory functions. (Supreme Court of the Republic of Indonesia Padang Religious High Court, 2024)

While existing literature discusses the ethical responsibilities of judges, this study uniquely examines the specific impacts of the judges' code of ethics on public confidence and the overall effectiveness of the legal system. The primary objectives of this research are to analyze the role of the judicial code of

ethics in promoting accountability in case decisions and to identify the consequences of violations on public trust.

This research will provide valuable insights for policymakers, judicial authorities, and legal practitioners, contributing to the enhancement of ethical standards in the judiciary. By reinforcing the importance of ethical conduct, the study aims to restore public confidence in the judicial system and ensure fair and just legal proceedings.

Research Method

The research method used in this writing is normative juridical, with legal sources consisting of primary legal materials and secondary legal materials. Primary materials include law books, while the approaches used include statutory approaches, comparative legal approaches, and case approaches and legal analysis. The research flow begins with problem identification, followed by data collection and analysis through literature study. After that, the data that has been analyzed is compiled in descriptive form to describe the research results and conclusions. This method aims to provide an in-depth understanding of the role of judges' code of ethics in decision-making accountability as well as the impact of violations of the code of ethics on public trust in the justice system.

Result and Discussion

The Role of Judges' Code of Ethics in Terms of Responsibility in Deciding Cases

Judges are officials entrusted with important duties by the law and society, and they are responsible for carrying out these mandates with high integrity and maintaining high standards of legal ethics and professional honor. The quality of public services is the right of the people and the obligation of the government to fulfill it. People are entitled to good public services, while the government must comply with the rules to provide these services. (Selfia, 2024)

Judges play an important role in the application of laws and regulations in case decisions. Therefore, a judge in deciding a case must consider wisely and carefully.

The reason judges must consider wisely and prudently is to not only carry out the duties of the state, but also the interests of a person's rights and carry out as a mandate so that the laws and regulations are applied correctly and fairly. In applying a regulation, it should pay attention to the purpose of the law itself, namely for justice, legal certainty, and expediency. This all needs to be applied, although according to Radbruch states that it has the potential to clash (tension with others). (satjipto, 2023) That way the judge in carrying out his

duties and functions as one of the law enforcers of justice, on the other hand the judge who is a noble profession (*officium nobile*), but has a very big responsibility. Judges get their responsibilities shouldered because of Article 2 paragraph (1) of Law No. 48 of 2009 concerning Judicial Power, and the judge's decision must have ideological foundations contained in the precepts of Pancasila.

Judges have a central role in society's legal system and must carry out their responsibilities with great professionalism and dedication. Adherence to judges' codes of ethics is essential to ensure that they operate fairly, transparently and with integrity, in order to maintain public trust in the justice system. (Selfia, 2024)

In addition, the judge's responsibility is not only to God Almighty, but also to the constitution, law and society. Seeing that, of course, the responsibility of a judge is not playing games. The great responsibility that a judge has, requires something that supports so that this responsibility can be carried out by the judge, namely a foundation or guidance that can be used as a foundation in the profession as a judge, in this case the judicial code of ethics. A judge's code of ethics is a set of ethical norms for judges in carrying out their duties and functions as judges. The code of ethics also contains ethical norms for judges in the social system inside and outside the institution. According to Sumaryono, why is this professional code of ethics needed and formulated? There are several reasons for this, namely (1) as a means of social control. (2) As a deterrent to interference from other parties. (3) As a prevention of misunderstanding and conflict. The code of ethics is a norm of behaviour that has been considered correct and established and will be even more effective if the norm of behaviour is formulated in such a way that it satisfies the parties concerned (muhammad, ethics of the legal profession, 2014).

Responsibility of Judges' Code of Ethics Several values is embraced and must be respected by professional judges in carrying out their duties. As mentioned in the previous chapter, value here is defined as the nature or quality of something that is beneficial to human life, both physically and mentally. For humans, values are used as a basis, reason, or motivation in behaving and acting, whether they realize it or not. When referring to Law No. 4 of 2004, the values are as follows:

- a. First, the profession of judge is an independent profession to uphold the law and justice based on Pancasila for the implementation of the state of law of the Republic of Indonesia (Article 1). This contains the value of independence and the value of justice.
- b. Second, from Article 1 of Law No. 4 Year 2004, what needs to be discussed further is the value of justice. This value is also contained in

the following articles. In fact, the obligation to uphold justice is not only accountable horizontally to fellow human beings, but also vertically to God Almighty (Article 4). Furthermore, the value of justice is also reflected in the obligation of judges to administer justice simply, quickly, and at low cost, so that justice can be reached by all people with no complicated Judges in adjudicating must also not discriminate against people and must respect the principle of presumption of innocence (Article 58).

- c. Third, judges may not refuse to examine and try a case filed on the pretext that the law is not or unclear (Article 16). This value can be called the value of openness. If he refuses to accept people who come seeking justice to him. If the law is not or unclear, the judge is obliged to explore the legal values that live in the community (Article 28). This value of openness cannot be contradicted.
- d. Fourth, judges must uphold the cooperation and authority of the corps. The value of this cooperation is evident from the fact that the trial takes the form of a panel, consisting of at least three judges (Article 19). These judges render their decisions by secret deliberation (Article 19).
- e. Fifth, judges are also always accountable for all their attitudes and actions. As mentioned above, this accountability has both vertical and horizontal dimensions. Vertically, it means that he is accountable to God Almighty. Horizontally, it means that accountability is directed towards fellow human beings, both to higher judicial institutions and to the wider community. In this latter context, the examination and reading of court decisions must be open to the public (Articles 18 and 19). Article 25 paragraph (1) states, "All court decisions must not only contain the reasons and bases for the decision, but must also contain certain articles of the relevant regulations or unwritten sources of law which are used as the basis for judging".
- f. Sixth, judges must uphold the value of objectivity. This is reflected in Article 28 which states that judges must recuse themselves from examining a case if they have an interest in the case. For example, the judge is related by blood to the chairperson or other judges, or to the prosecutor, legal counsel, and the court clerk, as well as to the party being tried. If the party being tried has doubts about the judge's objectivity, he or she is given the right to object to the judge trying the case, which is called the right of recusal (Article 28).

The Impact of Violation of Judges' Code of Ethics on Public Trust in the Judiciary and Legal System

The Professional Code of Ethics serves as an effort to prevent and monitor potential intervention from the government or society through its various implementations. This code of ethics serves as a mechanism to prevent intervention from unrelated external parties. The goal is to create harmony among all members working in the profession. Professional Code of Ethics as one of the chains in the enforcement of a profession that is used as a benchmark in making morals as part of the existence of ethics in creating harmony in a field that requires ethics to be used and achieved for the sake of justice.

Judges in examining, adjudicating, and deciding a case are protected and Judges are given independent powers and are free by the state from various interventions from any party and in any form, as a guarantee of impartiality except for law and justice for the implementation of the rule of law of the Republic of Indonesia. Therefore, in realizing legal certainty and order for the community, judges are obliged to explore, follow, and understand the values of law and a sense of justice that live in society. On that basis, the judge in examining, adjudicating, and deciding is required to be based on legal facts at trial, legal norms / rules, legal morals, and legal doctrine as a consideration for his decision on a case, for the sake of upholding justice, certainty, and legal order, which is the main purpose of the law itself. (Maggalatung, 2014)

Violations of the judges' professional code of ethics have become a major highlight in the world of justice. Judges, who are supposed to be the pillars of fair and strict law enforcement, are faced with major challenges due to ethical violations. This phenomenon raises deep concerns about the integrity and credibility of the judicial system. Over the past three years, cases of code of ethics violations by judges have created a paradox amidst public expectations for justice. The cases cover a wide range of offenses, from impartiality to involvement in ethically unsound practices. The high number of cases raises questions about the viability of the integrity of the justice system and the level of public trust in it, thus demanding immediate attention and action. (Selfia, 2024)

The profession of a judge is certainly not as easy as turning your palm. Becoming a judge must be based on the full responsibility and independence of being a judge. Judges are bound by the judicial code of ethics in their profession, which acts as a binding chain to strengthen the responsibility carried by a judge. When it turns out that the judge has committed a violation, there are legal consequences. Judges who are proven to have committed violations or other abuses can be held personally accountable both criminally and civilly.

Public dissatisfaction with court decisions often arises because judges' decisions are considered unfair, controversial, or difficult to implement legally. Therefore, judges must utilize all of their authority to uphold the law, truth, and justice equally, as stated in the judge's oath that emphasizes equal treatment for all people before the law. In addition, judges need to understand the social and cultural context of society in order to make decisions that are more appropriate and relevant to the values of justice expected by the public. By maintaining integrity and professionalism, judges can increase public trust in the justice system. (Selfia, 2024)

The code of ethics for judges regulates the responsibilities of judges to the state, institution, profession, and society. This code of ethics, also called the Code of Ethics and Code of Conduct for Judges, contains a number of policies that include obligations and prohibitions for a judge in carrying out his or her professional duties. 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 047/KMA/SKB/IV/2009 and 02/SKB/P.KY/IV/2009 on the Code of Ethics and Code of Conduct for Judges regulates the code of ethics for judges.

Awareness of the importance of maintaining the dignity, integrity, conduct of judges, and autonomy of the judicial power requires the establishment of an independent institution to ensure effective oversight. The Indonesian Judges Association (IKAHI) stands out as the only professional organization of judges in Indonesia to initiate the establishment of a Judges' Honor Council.

The Judges' Honor Council acts as a defense forum for judges suspected of violating legal provisions, ensuring a fair and transparent process. In this process, reports containing alleged violations of the code of ethics must be thoroughly investigated to ensure their veracity. The approach to judges who are found not to have violated professional ethics is to reform, while penalties will be applied if violations are proven. This reflects a commitment to maintaining ethical standards and integrity within the justice system. (Sayyida, 2020)

When a judge commits an act that is not in accordance with the rules, it is considered a violation. Misconduct includes any attitude, speech, or behaviour of a judge that is contrary to the Code of Ethics and Code of Conduct for Judges. Judges who are proven to violate ethical principles will face sanctions therefore. These sanctions are aimed at enforcing discipline and maintaining the integrity of the judicial system as well as ensuring public confidence in judges and the legal process.

In a repressive state system, the above principle may not work properly because in reality there are more dominant power holders who always try to influence the judiciary. If the case has the potential to produce a decision that could jeopardize the continuity and interests of the authorities. This is not the case in a more democratic state. Interference with the judiciary, while still possible, will not be overtly displayed, but through more subtle means. In fact, there is a view that the greatest threat comes from the courts themselves, namely how capable they are of upholding the principles of justice, legal certainty and independence. (Andriyani, 2019)

Judges obey only the constitution and the law and are not subject to the commands of any other judicial or non-judicial body. Judicial bodies are one of the foundations of a democratic government under the Rule of Law as envisioned by the International Commission of Jurists in Bangkok in 1965. (Sutatiek)

Indonesian society is now increasingly accustomed to being presented with news about the behavior of law enforcers who are seen as impartial to justice and truth. Conversations about the figures of investigators, prosecutors, judges and lawyers who speak loudly in front of the media about their actions in accordance with the laws and regulations, often do not add to the explanation that educates the public, because what happens is just a play on words.

When the Judge makes a decision, he must pay attention to all aspects of it, starting from the need for caution, as little as possible avoiding inaccuracies and omissions, both formal and material in nature to the technical skills to make it. The judge should be born, grow, and develop an attitude / nature of moral "satisfaction" if the decision made can become a benchmark for the same case, as a reference material for theorists, academics, and legal practitioners as well as to fulfill a sense of "conscience satisfaction" for the judge concerned if the decision he made is "strengthened" and "not cancelled" by the superior court or the Supreme Court if the case reaches the level of appeal or cassation. (Mulyadi, 2015)

Sema No. 10 /2005, which stipulates that the President of the Court can provide guidance/instruction to Judges/the, Panel of Judges, is not a contradiction to what is stipulated in Article 24 Paragraph (1) of the 1945 Constitution and the freedom of judges. Judges in carrying out their duties must be free and responsible. Judges must not be ordered or pressured by anyone. When handling a case that attracts attention, at the request of the Judge or the initiative of the Chief Justice or his/her superior leader, he/she may request/be given guidance in the nature of advice or general instructions in carrying out his/her duties. Guidance from the President of the Court is

considered as a consideration for administering justice carefully and reasonably. In relation to warnings or reprimands to Judges / Panel of Judges can only be given after the case has been decided, not when the case is ongoing.

Conclusion

This research confirms that the Judges' Code of Ethics has a very important role in upholding the accountability of judges in deciding cases. This code of ethics not only serves as a code of conduct, but also as a guarantee of integrity and professionalism in the judicial process. With the existence of a code of ethics, it is expected that judges can carry out their duties objectively and fairly, so that the decisions taken can be morally and legally accountable. The exercise of judges' freedom in carrying out their duties must be free from external pressure, to maintain public confidence in the judicial system.

Bibliography

- Andriyani, Y. (2019). Implementation of Judges' Code of Ethics in Examining, Adjudicating and Deciding Cases. *Logic: Journal of Multidisciplinary Studie*, 10(1), 13-30.
- Casarosa, F., Fajdiga, M., & Moraru, M. (2024). *Freedom of Expression of Judges: European and National Perspectives*. Taylor & Francis.
- Jacob, S., Decker, D. M., Lugg, E. T., & Diamond, E. (2022). *Ethics and law for school psychologists*. John Wiley & Sons.
- Joy, P. A. (2017). Lawyers Serving as Judges, Prosecutors, and Defense Lawyers at the Same Time: Legal Ethics and Municipal Courts. *J. Prof. Law.*, 65.
- Lubis, A. H. (2024). Initiating The Paradigm Of Transitive Legal Consideration An Endeavor To Maintain The Dignity Of Judges Through Decisions. *Judex Laguens*, 2(3), 382–398. <https://doi.org/10.25216/ikahi.2.3.12.2024.382-398>
- Maggalatung, A. S. (2014, December 2). The relationship between facts, norms, morals, and legal doctrines in the consideration of judges' decisions. *Journal of Cita Hukum*, II(2), 186.
- muhammad, a. k. (2014). *ethics of the legal profession (Vol. 1)*. bandung: PT Citra Aditya Bakti.
- Muhit, R. A. (2023, February). The Role of the Code of Ethics for the Judiciary Profession on the Responsibility of Judges in Deciding Cases in Court. *Lex Laguens: Journal of Law and Justice Studies*, 1(1), 7.
- Mulyadi, L. (2015). *The Face of Judges' Decisions in Indonesian Civil Procedure Law Theoretical Perspectives, Practices, Making Techniques, and Problems*. Bandung: PT Citra Aditya Bakti: Bandung.

- Narindra, A. C., Salsabila, F. N., Ayuni, N., & Aulia, R. M. (2024). Analysis Of The Constitutional Court's Decision Regarding The Age Limit For Presidential And Vice-Presidential Candidates. *Problematika Hukum*, 6(1), 29–43.
- Nurul, Q. (2017). *Legal Professional Ethics: The Four Pillars of Law*. Makasar: CV. Social Politic Genius (Sign).
- Raz, J. (2017). The rule of law and its virtue. In *The rule of law and the separation of powers* (pp. 77–94). Routledge.
- satjipto, r. (2023). *the science of law* (Vol. 1). bandung: 2012.
- Sayyida, R. (2020). Legal Sanctions Against Adhoc Judges who Violate the Code of Ethics for the Judge Profession. *Logic: Journal of Multidisciplinary Studies*, 11(2), 72.
- Selfia, J. G. (2024). Implementation of Sanctions for Violations of the Code of Ethics for Judges by the Judges Honor Council in Indonesia. *Karimah Tauhid*, 3(4), 4960.
- Supreme Court of the Republic of Indonesia Padang Religious High Court. (2024, October 16). (Supreme Court) Retrieved September 20, 2024, from <https://www.pta-padang.go.id/pages/kode-etik-hakim>



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