

The Ideal Concept of Ethics Court in the Constitutional System of the Republic of Indonesia

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Abstract: This research is normative juridical research with the approach used being a statutory approach and a conceptual approach with the aim of analyzing a number of statutory regulations and finding the conceptual ideal of Ethics Court in the Constitutional System of the Republic of Indonesia. The research results show that the formation of ethics enforcement institutions can be found in various forms, it can be an organ attached to the institution it supervises (internal) or one that exists as a separate institution (external). Debates began to arise when the lack of uniformity in the institutional form of ethics supervisors was considered to affect the procedures and quality of ethics enforcement itself. Therefore, this research concludes that the ideal concept of Ethics Court in the future should have a constitutional and juridical position as part of judicial power with the following conception: First, Ethics Court institutions are constructed independently and separately from the judicial institutions of the Supreme Court and Constitutional Court by forming an Ethics Court, so that in the future the implementation of judicial power in Indonesia it consists of 3 (three) judicial institutions, namely the Supreme Court and its subordinate judicial institutions, the Constitutional Court, and the Ethics Court. Second, the Ethics Court was constructed as the first and final ethics court by supervising institutions that enforce codes of ethics and codes of behavior that have existed so far by consolidating and reorganizing institutions with uniformity as ethics monitoring institutions in each state institution. Third, filling positions and/or membership of the Ethics Court must be carried out openly and can be participated by all Indonesian citizens who meet the requirements. Fourth, the work of the Ethics Court must apply the principles of openness, independence and accountability like the judiciary in general.

Keywords: Concept, Ideal, Judiciary, Ethics, System, Constitution, Indonesia

1. Introduction

In the beginning, ethics was a collection of unwritten rules created by a community to regulate how each member of the community should behave. Because it was created by a certain community, its binding power is also inherent in the community itself, so its enforcement is not carried out by the state, but by the community itself. Apart from that, actions can be taken for violations committed, which can include criticism, ridicule, ostracism, and even boycott. [1]

Ethics are norms, values and rules of good and bad human behavior. Ethics functions to give humans an orientation to how they live their lives through a series of daily actions, and

guides humans to take appropriate attitudes and actions in living their lives, and guides humans to make decisions about what actions are necessary and good for them done. [2] According to Frans Magnis Suseno, ethics is very necessary in human life because ethics talks about human behavior, and also about the meaning of good and bad, and explains what humans should do to other humans. [3]

Etymologically, the word "ethics" comes from ancient Greek which consists of two words, namely Ethos and ethics. Ethos, singular form which means residence, pasture, enclosure, habits, customs, character, attitude, way of thinking. The plural form is facing, etha, which means customs. Whereas Ethikos means morals, civility, good behavior and actions. In this case, the word ethics is often

confused with morals. Moral comes from the Latin word, not, singular form, *ormores*, plural form, which means customs, habits, behavior, character, character, morals, way of life. In Arabic, the word ethics is known as *akhlak*, meaning good character. Meanwhile, in Indonesian it is called moral governance.

According to the Big Indonesian Dictionary, ethics means the science of what is good and what is bad and about moral rights and obligations (*akhlak*). [4] However, Indonesian society has its own customs when it comes to referring to ethics, namely "*susila*" or "*decency*". Morality comes from Sanskrit, which consists of two syllables, namely *are* and *they*. *Shayari* Means good, beautiful, beautiful. Whereas They Have the meaning of *adab*, behavior, ethical actions (manners and so on), morals, morals. From the two meanings of these syllables, it can be concluded that "*morality*" is behavior or actions that are good and in accordance with the norms and rules that exist in social life. [5]

Ethics as a norm then developed through several stages starting from theological ethics, ontological ethics, positivism ethics, closed functional ethics to the most recent open functional ethics. [6] Although initially ethics was only understood as part of a system of norms that only existed in public relations without having to formulate it in written form, but the needs of society encourage the creation of written ethics which usually takes the form of a Code of Ethics or Code of Conduct.

The stages of development of positivist and functional ethical systems have provided an illustration that ethics is no longer a source of abstract norms, with theological and ontological dimensions as a philosophical and scientific study, but rather grows and develops as more concrete norms, namely ethical regulations (*rule of ethics*). In the context of state life, state practice has shown that it is not only dominated by law enforcement (*rule of law*) alone, but also the urgency of upholding ethics and morality (*rule of ethics*) for all citizens. As is the case with public officials, *rule of ethics* has been attached to almost every axis of state power.

The implementation of a system of ethical norms in public institutions in world countries was initiated by the UN through the UN Resolution in December 1996 concerning "*Action Against Corruption*" with attached manuscript "*International Code of Conduct for Public Officials*". In this Resolution, the UN recommends that all UN member countries build ethical infrastructure in public positions (*ethics infrastructure for public offices*). This then encourages the further development of the practice of developing code of ethics infrastructure accompanied by the establishment of concrete institutions enforcing the code of ethics everywhere throughout the world, and in all fields and sectors of professional and organizational life as well as the environment of positions in state organizations. All 50 (fifty) states of the United States have established a code of ethics system for public officials in each branch of power. Of the 50 states in 42 countries, they have been formed by an ethics *commission* who work independently and effectively for public officials in each country. Likewise in other countries

in Europe, Australia, Canada and Latin America, the phenomenon has developed a rule of ethics. [7]

In the current Indonesian constitutional system, many supervisory and ethical enforcement institutions have been established in the function of legislative, executive and judicial powers, in addition to state commissions which function as quasi or semi-judicial institutions. In the judicial sector, a Judicial Commission was formed, in addition to the Honorary Council of Judges (MKH) in the internal system of the Supreme Court. At the Constitutional Court there is also a mechanism for the Honorary Council of Constitutional Judges (MKMK). In the legislative environment, especially the DPR, the Court of Honor Council (MKD) has been established as an institution to enforce the DPR's code of ethics, upgrading from the name of the previous Honorary Board (BK). Within other state institutions, code of ethics enforcement agencies have also been established, such as the currently very well-known Election Organizer Honorary Council (DKPP), a code of ethics enforcement agency for KPU and BAWASLU commissioners. In the executive realm, the State Civil Apparatus Commission (KASN) was formed as the supervisor and enforcer of the Republic of Indonesia's Code of Ethics for Civil Servants, and there is also the Republic of Indonesia Prosecutor's Commission (KKRI) and the National Police Commission (Kopolnas). Likewise, the Corruption Eradication Commission (KPK) has formed a KPK Supervisory Board.

Professional organizations themselves have already implemented codes of ethics and enforcement systems. In the medical profession it already exists the Indonesian Medical Council (KKI), one of whose duties is to regulate the existence of an honorary council for medical ethics. In the professional organization of advocates, for example the Indonesian Advocates Association (PERADI), a code of ethics and an Advocates' Honor Council have long been regulated.

The growth and development of institutional supervision and enforcement of ethics in state institutions has shown that ethics for state administrators or public officials is very necessary. Moreover, the implementation of ethical values in state administration in Indonesia is still far from reality in realizing good, clean state administration, free of corruption, collusion and nepotism as well as good quality of public services, capacity, accountability of bureaucratic performance and professionalism of bureaucratic apparatus. The exercise of state power is still characterized by the fact that state officials such as judges, DPR members, DPRD members, governors, regents, mayors, Bank Indonesia officials, party leaders and ministers have been arrested in corruption cases. According to Frans Magnis Suseno, irregularities in state administration are not only irregularities in systems and structures, but also ethical irregularities in state management, specifically public ethics irregularities. [8]

The existence of ethical irregularities has actually become an awareness of the Indonesian people as outlined in the Decree of the People's Consultative Assembly (TAP MPR) through TAP MPR/VI/2001 concerning Ethics in National

Life. In the consideration of the MPR's TAP, it was stated that the ethics of national life today are experiencing a setback which has contributed to a multidimensional crisis. so the existence of this TAP MPR is intended and aims to provide awareness to every citizen about the importance of upholding ethics and morals in national life. The Ethics of National Life was formulated with the aim of becoming a basic reference for improving the quality of Indonesian people who are faithful, devout and have noble morals and an Indonesian personality in national life. The formulation of Ethics for National Life originates from religious teachings, especially those that are universal, and the noble values of national culture which are reflected in Pancasila as a basic reference in thinking, behaving and behaving in national life. The scope of the Ethics of National Life includes 6 (six) main points, namely (1) social and cultural ethics; (2) political and governmental ethics; (3) economic and business ethics; (4) ethics of fair law enforcement; (5) scientific ethics; (6) environmental ethics. [9]

The urgency of ethics in the context of law enforcement was actually emphasized by Earl Warren who emphasized that, "In civilized life, law floats in a sea of ethics". [10] Earl Warren's view contains 3 (three) conceptions of ethical norms, namely: first, Earl Warren implicitly views that ethics and law are separate norms, each of which has its own character and independence. [11] However, law and ethics have a close relationship, which means that law and ethics are two different norms even though they have the same orientation and goals. Second, in Earl Warren's view, the position of ethical norms is no less important than legal norms. This is emphasized by Earl Warren's view which emphasizes that "law flows in an ocean of ethics". This means, even if the law is good but there are problems related to ethics, it will be difficult for the law to carry out its duties towards the goal of the law, namely justice. This is what Earl Warren actually emphasized that law and ethics have a parallel or equivalent position and even tend to complement each other. Third, by placing law on an equal footing with ethics, Earl Warren also seems to give a certain place to ethical norms which *mutatis mutandis* have the same and similar aspects. This has the implication that when there is legal justice then there should also be ethical justice; This is a consequence of the existence of legal norms and ethical norms that must be enforced. From these three things, Earl Warren's idea is an attempt to confirm the existence of ethical norms. For Earl Warren, the effort to fully enforce legal norms is by enforcing ethical norms.

Meanwhile in Indonesia, Franz Magnis Suseno said that ethics and morality will become the orientation in national and state life. In this context, the emergence of the idea of ethical justice, which initially emerged at the Constitutional Law Conference in Padang, West Sumatra Province in September 2015, which was then continued to be voiced by Jimly Asshiddiqie, was deemed important to realize. The existence of an ethical court is important in the modern state administration system considering that the potential for abuse of authority and ethical violations by state administrators is

very large. The executive power exercised by the President and his staff is given by the constitution the authority to carry out government affairs with all the authority they have. Legislative power is given to parliament with the authority to make laws. Judicial power with authority in the judicial sector is also very important powerful exercise judicial power. Such broad powers need to be monitored to avoid abuse of power (*abuse of power*). If there is an abuse of power, there is a legal mechanism to prosecute state officials to be held accountable for their actions. In its development, it turns out that the responsibility of state administrators is not only legally responsible, but there is another accountability mechanism, namely ethical responsibility.

In the constitutional system of the Republic of Indonesia, the urgency of Ethics Court is motivated by at least three factors. First, philosophical factors. Philosophically as *staats fundamental norm*, Pancasila is the source rule of ethics in nation and state. Second, juridical factors. After the amendment to the 1945 Constitution, the main body explained its important rule of ethics. This is based on the imperative phrase of the Constitution which provides prerequisites good behavior To become a state official, apart from the constitution, it is also regulated in the Decree of the Consultative Assembly of the Republic of Indonesia number VI/MPR/2001 concerning the ethics of national life. Third, sociological factors, nowadays almost all branches of power have established supervisory and enforcing codes of ethics. [12]

From the three factors above, the current institutional ethics of justice is still lacking blt is diverse in nature, and partial has not yet become a proper special institution courts in general to uphold ethics for state administrators, diversity and the nature of institutional independence enforcing the ethics of organizers the state is actually an urgent problem that must be solved within the framework building a system of ethics enforcement for state administrators as a mechanism bnew to build the integrity and accountability of state administrators credible and integrated.

According to M. Lutfi Chakim, among the current supervisory and ethics enforcement institutions in the Indonesian state administration system which can be said to be already functioning as an ethical court is the General Election Organizer Honorary Council (DKPP). The working principle of enforcing the code of ethics is open, transparent, objective, professional and impartial as is customary in the judiciary. In the 2 (two) years since the establishment of the DKPP in 2012, the DKPP itself has been recorded as permanently dismissing or dismissing the commissioners of the General Election Commission (KPU) or the Election Supervisory Body (Bawaslu) throughout Indonesia, as many as 126 people, and more than 100 people who were given warnings ranging from mild warnings to harsh warnings. Everything is done openly as a guarantee of public accountability by applying all modern judicial principles known in the legal world. [13]

However, when referring to the definition of justice formulated by Sjachran Basan, the code enforcement

institutions that have been formed can be called as ethical justice, it does not only mean DKPP. According to Sjachran Basan, what the judiciary says is that there is formal law and material law, with these two elements of law the judiciary decides cases by applying the law, finding the law. in concrete in maintaining and guaranteeing compliance with material law by means of procedures established by formal law. [14] With regard to ethical justice, Jimly Asshiddiqie said that like the definition of law which consists of components of material law (substantive) and formal law (procedural law), then analogically in the ethical system these two things can be used in using the terms formal ethics and material ethics. Material ethics concerns the substance of ethics and standards of behavior which may or may not be carried out, while formal ethics concerns procedures for enforcing material codes of ethics and codes of behavior.

Code of ethics enforcement institutions that have been practicing as ethical courts should be reconstructed as Ethics Court institutions that are required to apply judicial principles that are common in the modern world, especially regarding transparency, independence and impartiality. as ethical justice, this means that all the principles that apply in the world of legal justice must also be applied in the field of ethics. For example, the principle 'listen to the other side', that all parties must be heard or given the opportunity to be heard. Likewise, the principles of judicial transparency and openness must also be put into practice in the process of enforcing the code of ethics.

2. Research Methods

This research is normative research [15] with the approach used being a statutory approach and a conceptual approach as in legal research. [16] Analyzing a number of statutory and conceptual regulations relating to ethical justice, to find the ideal concept of justice for this research uses the theory of the rule of law as grand theory, the theory of state institutions and the theory of legal and ethical relations as middle theory, and the theory of justice as apply theory.

3. Results and Discussion

3.1. The Ideal Concept of Ethics Court in the Constitutional System of the Republic of Indonesia

The concept of institutions that enforce professional codes of ethics is currently not well organized. This happened because its formation did not have a mature concept, and also its formation was rushed because the needs and demands of society were so fast. The idea of Ethics Court in Indonesia is a thought that is often discussed in seminars and educational forums by legal experts and practitioners. Thinkers wrote their thoughts and put them together in one book with the Bunga Potpourri genre. The establishment of ethics enforcement institutions is expected to carry out ethical supervision objectively and transparently. However, resolution of ethical violations is generally resolved behind

closed doors within the profession. Ideally, there is a need for standards for the implementation of Ethics Court in Indonesia. Theoretically, if it is said that justice or court is definitely a form of implementation of judicial power. Likewise in constitutional juridical terms, as stated in Article 24 paragraph (1) of the 1945 Constitution that "Judicial power is an independent power to administer justice to uphold law and justice". However, this is not the case with what is meant by Court Ethics which is practiced by institutions enforcing codes of ethics and codes of conduct, it has not been understood as part of the exercise of judicial power. The dissertation research offers the concept that ethics enforcement agencies in currently developing state institutions should be constructed as ethical courts that function as part of the executor of judicial power. It must be admitted that placing Ethics Court in the realm of judicial power is not an easy matter. Therefore, mature and proportional ideas and big ideas are needed. [17]

The formation of an ethical court which is established as part of the exercise of judicial power is of course based on a concept that can be understood as if it were integrating ethics into part of the law. This conception is of course theoretically based on an integrative model of legal and ethical relations. This integrative relationship borrows the relationship model created by Salman Luthan called the reciprocal functional relationship between the two entities in the formation of law and law enforcement. Between law and morals, they both function mutually towards both. The function of morality regarding law includes: ethical sources (values) for the formation of positive law, sources of rules for positive law, evaluative instruments for the substance of legal rules, and sources of justification references for resolving legal cases where the legal rules are unclear. There is also a function of law towards morals consisting of the function of transforming individual moral rules into social legal rules with the support of certain sanctions, strengthening moral values, principles and rules, forming new morality in society, and suggestions. to establish values, principles and moral rules in the order of social life. [18]

According to Ridwan, Khudzaifah Dimiyati, and Absori, in the Indonesian context, the pattern of legal and moral relations shows an integrated and independent pattern. First, the integrative pattern, this can be seen from the construction of Indonesian law which does not dichotomy between morals and law, especially in the substance aspect. It can be seen that Pancasila must be understood not only as a source of law, but also as a source of ethics. Likewise, the 1945 Constitution not only contains constitutional law, but also constitutional ethics as stated in the theoretical concept of constitutional ethics which was presented in Chapter II. Likewise, TAP MPR number VI/MPR/2001 concerning Ethics in National Life can be understood as law and ethics. Second, the independent pattern, this pattern occurs at the structural level because moral ethics and law each have their own institutions for enforcing them. This can be seen that there are codes of ethics for members of state institutions and professional institutions with enforcement agencies that work

separately from law enforcement agencies. [19]

Following the opinion of Ridwan, Khudzaifah Dimiyati, and Absori, that the concept of Ethics Court is part of judicial power, but is not understood as a judicial concept as intended in Article 24 paragraph (2) of the 1945 Constitution, that judicial power is exercised by a Supreme Court and subordinate judicial bodies in the general justice environment,

religious court environment, military court environment, state administrative court environment, and by a Constitutional Court. In this case, the judiciary itself is needed as an ethical court in the system of judicial power, which is not understood by the Supreme Court and the courts below it as well as the Constitutional Court. Such a concept can be depicted in the following scheme.

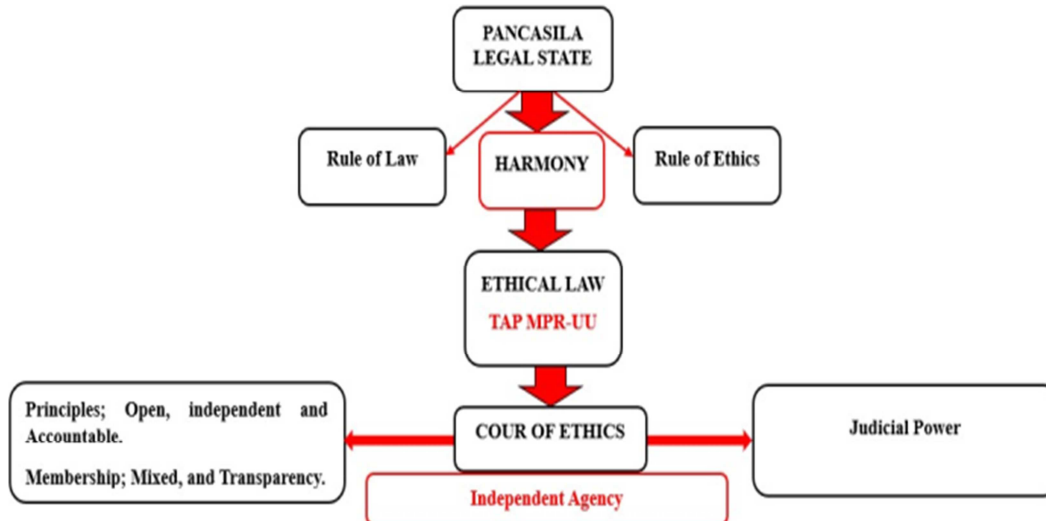


Figure 1. Ethics Court Concept.

In the conceptual scheme above, the concept of Ethics Court is built on the basic idea of the relationship between law and ethics in the concept of harmonious relations. The concept of legal and ethical harmony is contained in Pancasila. The Pancasila concept of the rule of law explains that there is a relationship between law and ethics that cannot be separated from each other. Because Pancasila, apart from being a source of law, is also a source of ethics. In this framework of thinking, state administration according to the perspective of the Pancasila legal state is not only based on law but also based on ethics. The development of the Indonesian constitution philosophically, juridically and sociologically has implemented the rule of law side by side rule of ethics in implementing the powers of state institutions. The Pancasila legal state not only applies legal norms but also ethical norms. The state is not only obliged to enforce the law (law enforcement) but also uphold ethics (ethics enforcement). So that in the function of judicial power carried out by the judiciary, the Pancasila rule of law, apart from having a legal court as it has so far in terms of law enforcement, also has an ethical court in order to uphold ethics.

The institutional formation of ethics enforcement for state administrators is currently carried out with a partial and diversified concept. Institutions formed to uphold the ethics of state administrators are carried out by state institutions, whether mandated by law or initiated by these institutions based on needs with different institutional names and characteristics. The establishment of an institution has not become a special institution like the courts to enforce the law for state administrators.

The ideal institutional concept of Ethics Court was built to overcome fundamental institutional problems that must be resolved within the framework of building a system of ethics enforcement for state administrators as a new mechanism for building the integrity and accountability of credible state administrators. The current concept where every state institution has an ethics enforcement agency is a realistic concept amidst the strengthening sectoral egos of state institutions. The basic nature of state institutions today tends to be not to want to be monitored by other state institutions. This has an impact on institutional positions that are not independent in upholding ethics, which tend to be part of state administration institutions. This certainly impacts the quality of supervision and decisions that will be issued by these institutions which tend to be in a non-independent position in making decisions. Even if the current system is to be overhauled, it will face various existing laws and regulations so harmonization and synchronization need to be carried out. [20]

In general, in practice, code of ethics enforcement is carried out internally and externally. Fauziah Suci Angraini in her research questioned internal ethical enforcement. According to him, the model of ethics enforcement by external institutions has advantages compared to the institutional model of internal ethics enforcement. The advantage lies in the element of independence in the implementation of ethical enforcement which has coherent implications for reducing the subjectivity of supervision and increasing accountability. Meanwhile, internal enforcement has a tendency to prioritize the interests of community groups bound by the code of ethics itself, not the general

public whose interests have the potential to be harmed due to ethical violations. [21]

Muh. Risnain in his article offers the concept of uniting ethics enforcement institutions for state administrators by forming a special institution that will supervise and adjudicate the ethics of all state administrators, whether in the executive, legislative or judiciary, in one Ethics Court institution. This institutional unification is intended to build uniformity in the code of ethics and behavior of state administrators and at the same time eliminate the psychological barriers of state administration institutions which tend not to want to be supervised by other state institutions. [22]

Almost the same as this concept, Idul Rishan in his article offers the concept of constructing an ethical court formed as an independent institution which has the function of adjudicating ethical violations by state administrators. According to Idul Rishan, institutional consolidation of existing ethics supervisors is needed by organizing institutions in an integrated manner. Institutional consolidation is carried out using repositioning, reshaping and redundancy methods for previously existing state organs. The repositioning method, for example, repositioning the position of the KY in judicial power by placing it separately as the fourth branch of power, namely an independent state organ which functions as a watchdog for the enforcement of ethics within the body of judicial power. Reshaping method or downsizing existing organs. For example, in the executive power, the Prosecutor's Commission, Kompolnas, KASN, which also function as a supervisor of ethics for public officials in the executive power, it is institutionalized in an integrative manner (integrated into one unit). Likewise, within the legislative power there is one state organ which is externally separate from the DPR and DPD apparatus. This organ is a forum for aspirations to accommodate allegations of ethical violations by people's representatives. Redundancy method or removing several organs or institutions that previously had the function of adjudicating ethical violations. For example DKPP, MKD, MKMA, and MKMK. Because in the future all stages of adjudication of ethical violations will be handed over to one ethical court institution. [23]

According to Idul Rishan, institutional consolidation was carried out legislatively with 2 (two) alternatives. First, the establishment of a law which is equipped with final and binding decision authority. Second, amend the 1945 Constitution, where regulations related to Ethics Court institutions are regulated in the constitution (constitutional based power) so that it becomes an important organ (constitutional importance) of the constitution in monitoring the ethics and behavior of state officials.

Starting from the concept offered above, the ideal institutional concept of Ethics Court offered in this research is through the consolidation and structuring of ethics enforcement institutions in state institutions with the establishment of standards for enforcing ethical codes and uniform codes of behavior under one institution. The Ethics Court formed in the judicial power system.

The consolidation and structuring carried out through this law most importantly includes the institutional structuring of ethical supervisors in each state institution and the establishment of 1 (one) Ethics Court institution that oversees these ethical supervisory institutions. First, institutional restructuring is carried out by reconstructing the functions, duties and authority of institutions enforcing codes of ethics or codes of conduct in existing state institutions which differ in enforcing ethics to become uniform as ethics supervisors who carry out investigations into suspected violations of codes of ethics or codes of conduct. in each state institution.

Second, structuring material ethics and formal ethics. The code of ethics or code of behavior as material ethics in each state institution is generally arranged uniformly, but specifically each institution can form a code of ethics or code of behavior with special norms. Meanwhile, formal ethics, namely procedural procedures, are arranged uniformly because they are related to the adjudication process for ethical violations in the ethics court. Third, the structuring of membership of ethics supervisory institutions in state institutions can be filled by internal and external parties according to the needs of the institution. Fourth, character structuring. The existence of an ethics supervisory institution in each state institution is established on a permanent basis.

3.2. Establishment of the Ethics Court as a Permanent Judicial Institution That Adjudicates at the Final Level

The establishment of an Ethics Court institution as the implementer of judicial power in this dissertation proposes the formation of an Ethics Court (ME) by analyzing 3 (three) models of its formation that have previously existed, as follows: First, the idea of establishing an Ethics Court was once proposed by Harmoko and Jimly Asshiddiqie. In his research, Harmoko proposed that the KY be made an Ethics Court by elaborating on Jimly Asshiddiqie's opinion who proposed reconstructing the KY as an ethics court. On the grounds that in the 1945 Constitution the KY is an independent institution which is not part of the judicial power, but is included in the chapter on judicial power. [24]

Second, placing the Ethics Court under the Supreme Court, this option is of course without amending the 1945 Constitution. The entrance to the establishment of an ethics court is based on the Judicial Power Law Article 38 (1) Apart from the Supreme Court and its subordinate judicial bodies as well as the Constitutional Court, there are other bodies whose function is related to judicial power. so the other bodies in question include the ethics court whose special authority is to adjudicate ethics trials for officials or state administrators at the final level. so the judiciary is under the Supreme Court.

Third, increase the authority of the Constitutional Court to adjudicate ethical violations by revising the Constitutional Court Law. Because the MK's guidelines are to become an ethical court as explained in Article 7A of the 1945 Constitution. This article implicitly contains a meaning that can be understood by the MK to become an ethical court in judging violations or disgraceful acts of the president. However, another opinion expressed by Harmoko and Jimly

was that the Constitutional Court's workload was too much so that if it added more authority it would not be effective. Apart from that, the Constitutional Court will try itself, therefore it is not possible. Regardless of which realm the ethical court will be in.

The ideas in this research are different from previous research. Without repositioning KY's existence. Only KY needs to be reconstructed in its supervisory function, as an external ethical supervisor for Supreme Court judges. This dissertation proposes that the Ethics Court be formed on the basis of the concept of the relationship between law and ethics in the concept of harmonious relations that in substance law and ethics are integrated, but in structure, ethics enforcement is carried out independently and separately from the law enforcement structure. In this case, the formation of the Ethics Court was carried out by establishing a state institution new judicial power through amendments to the 1945 Constitution. So that in the future the ideal conception of judicial power is not only exercised by a Supreme Court with subordinate judicial bodies, and a Constitutional Court, but also by an Ethics Court.

4. Conclusions

The ideal concept of Ethics Court in the future should have a constitutional and juridical position as part of judicial power with the following conception: First, Ethics Court institutions are constructed independently and separately from the judicial institutions of the Supreme Court and Constitutional Court by forming an Ethics Court, so that in the future the implementation of judicial power in Indonesia it consists of 3 (three) judicial institutions, namely the Supreme Court and its subordinate judicial institutions, the Constitutional Court, and the Ethics Court. Second, the Ethics Court was constructed as the first and final ethics court by supervising institutions that enforce codes of ethics and codes of behavior that have existed so far by consolidating and reorganizing institutions with uniformity as ethics monitoring institutions in each state institution. Third, filling positions and/or membership of the Ethics Court must be carried out openly and can be participated by all Indonesian citizens who meet the requirements. Fourth, the work of the Ethics Court must apply the principles of openness, independence and accountability like the judiciary as regulated in *Bangalore Principles of Judicial Conduct* that judges must be independent and free from the influence of any power.

Conflicts of Interest

The authors declare no conflict of interest.

References

- [1] Yusuf, Imam Maulana. *Etika Dalam Wujud Akuntabilitas Penyelenggaraan Pemerintah*. Dinamika. 2017, 4(4).
- [2] Suparman Marzuki. *Peradilan dan Etika*, Menggagas
- Peradilan Etik, Jakarta: Sekretariat Jenderal Komisi Yudisial. 2015.
- [3] Franz Magnis Suseno. *Etika Dasar: Masalah-masalah Pokok Filsafat Moral*, Yogyakarta: Kanisius. 1987.
- [4] Ernawati Waridah, S S. *Kamus Bahasa Indonesia*. Bmedia. 2017.
- [5] Bertens, K. *Etika Profesi*. Gramedia Pustaka Utama. 2020. <https://books.google.co.id/books?>.
- [6] Jimly Asshiddiqie. *Memperkenalkan Peradilan Etik Jurnal Konstitusi dan Demokrasi*, 2021, 1(1).
- [7] Jimly Asshiddiqie. *Peradilan Etik dan Etika Konstitusi: Perspektif Baru Tentang Rule of Law and Rule of Ethics & Constitutional Law and Constitutional Ethics*. Sinar Grafika. 2022.
- [8] Magnis Suseno, Frans, *Etika Dasar; Masalah-Masalah Pokok Filsafat Moral*, Yogyakarta: Kanisius, 1987.
- [9] Mohammad Mahfud MD. *Etika Dalam Kehidupan Berbangsa Dan Bernegara Berdasarkan Konstitusi.*” Pidato Ilmiah Dalam Rangka Kuliah Perdana Program Pascasarjana Universitas Gajah Mada 17 September 2012.
- [10] Earl Warren, Chief Justice, U.S. Supreme Court; Address at the Jewish Theological Seminary of America Annual Awards Dinner (Nov. 11, 1962).
- [11] In civilized life, law floats in a sea of ethics. In New York Times 12 November 1962.
- [12] Harmoko M. said. *Menggagas Peradilan Etik Penyelenggara Negara Di Indonesia*. 2021, Sasi 27(1): 24.
- [13] M. Lutfi Chakim. *Desain Institusional Dewan Kehormatan Penyelenggara Pemilu (DKPP) Sebagai Peradilan Etik*. Jurnal Konstitusi. 2016, 11(2): 393.
- [14] Sjahran Basah. *Eksistensi dan Tolok Ukur Badan Peradilan Administrasi di Indonesia*, Bandung: Alumni. 1997.
- [15] Jonaedi Efendi, Johnny Ibrahim. *Metode Penelitian Hukum: Normatif dan Empiris*. Jakarta: Prenada Media, 2018.
- [16] Qamar, Nurul, and Farah Syah Rezah. *Metode Penelitian Hukum: Doktrinal Dan Non-Doktrinal*. CV. Social Politic Genius (SIGn), 2020.
- [17] Yusuf, *Kedudukan Peradilan Etik dalam Sistem Ketatanegaraan Republik Indonesia*, Disertasi Fakultas Hukum Universitas 17 Agustus 1945 Jakarta, 2023.
- [18] Salam Luthan, *Dialektika Hukum dan Moral dalam Perspektif Filsafat Hukum*, Jurnal Hukum IUS QUIA IUSTUM. 2012, No. 4, Vol. 19.
- [19] Ridwan, Khudzaifah Dimyati, and Absori. *Relasi Hukum Dan Moral: Sebuah Potret Antar Mazhab*. Prosiding Konferensi Nasional Ke-3 Asosiasi Program Pascasarjana Perguruan Tinggi Muhammadiyah Yogyakarta (APPPTM): 2009, 177–85. <https://publikasiilmiah.ums.ac.id/xmlui/handle/11617/9401>
- [20] Jimly Asshiddiqie. *Pengadilan Khusus.*” Putih Hitam Pengadilan Khusus. 2013.
- [21] Fauziah Suci Angraini. *Pro Kontra Penegakan Etik Secara Internal Dan Eksternal*. Jurnal Konstitusi & Demokrasi. 2021, 1(1): 37–63. <https://scholarhub.ui.ac.id/jurnalkonsdem/vol1/iss1/3>.

- [22] Muh. Risnain. Kelembagaan Mahkamah Etik Penyelenggara Negara. *Jurnal Etika & Pemilu* 1, no. 3(2015): 35–47.
- [23] Roscoe Pound, *Introduction to the Philosophy Of Law*, Yale University Press, New Haven, Connecticut., 1921. hlm 40.
- [24] Harmoko. Pelembagaan Peradilan Etik Bagi Penyelenggara Negara Di Indonesia. Thesis, Program Pascasarjana Fakultas Hukum Universitas Indonesia. 2020. xxi–148.