

BUILDING JUDGE INTEGRITY TO ACHIEVE JUDGE INDEPENDENCE RELATED TO JUDICIAL DECISIONS THROUGH OPTIMIZATION OF EXTERNAL SUPERVISION

Henry Indraguna, Universitas Borobudur
Faisal Santiago, Universitas Borobudur

ABSTRACT

Judges, as part of law enforcement, are expected to uphold the principles of law and the realization of justice as the main goal of the law. However, this process does not always happen linearly. The independence of judges is balanced by accountability. Both independence and accountability are like two sides of a coin. These two aspects are interconnected and impossible to separate as it must be said that there is no freedom without accountability. Many factors cause the weak integrity of individual judges as law enforcement officers, including a weak understanding of religion, economics, non-transparent recruitment processes, interference from the authorities, and weak external supervision.

The results of the judge's research are independent and fair in deciding a case. The decision can certainly be accepted by all parties and does not cause controversy among the community. It can also foster the trust of all people in the judicial process. Right now, the integrity of judges has not yet been fully realized. To this day there are decisions in cases that benefit certain parties. A judge is bound by a judge's professional code of ethics which requires them to be honest and fair with integrity. This means, in handling cases, judges must be independent and have the integrity to ensure that the decisions issued can fulfill a sense of justice. External supervision of judges requires optimization by giving the authority to set sanctions and not only provide recommendations. The current Judicial Commission, an institution that is given the authority to supervise judges, is constrained by the Supreme Court since they are the institution that evaluates the sanctions against the judges who have violated their integrity.

Keywords: Accountability, Judge Integrity, External Supervision

Introduction

The reformation has generated the enthusiasm and desire of the people to make changes in all areas of life in Indonesia. This includes reforms in the field of law enforcement, which is considered the weakest in Indonesia. The powerlessness of law enforcement almost occurs in all fields of law, both related to legislation and law enforcement that must be carried out by law enforcement institutions. It is not wrong if some people think that law enforcement in Indonesia feels stagnant. The factors that cause the above, are due to doubts about where and how to start, as well as which law enforcement and what kind of law enforcement should be prioritized. Should it be started with statutory regulations or law enforcement officers?

The issue of where to start law enforcement reformation was once raised by Muladi when he served as Minister of Justice. Muladi stated his opinion that in Indonesia, law and justice reform is needed. This is also something that is still a question for most Indonesians and it cannot be answered easily, as law and justice reform is not a simple problem but a very broad and complex one.

Obedience to the law is the basis of a country claiming to be a state of law. Obedience to the law in developed countries may differ from obedience to law in developing countries. It can be said

that the supremacy of law in developed countries is very good because every citizen has an equal position within the supremacy of law.

The author believes that currently Indonesia, as a country based on law, is moving towards quality law enforcement carried out by professional, clean, and authoritative law enforcement officers. Law enforcement officers in Indonesia work hand in hand to enforce the law firmly, boldly following applicable legal procedures. This can be seen from cases of narcotics, terrorism, corruption, and other criminal cases.

The honor of the judge is the credibility of the Supreme Court. Therefore, behaviors that demean or undermine the judge's dignity must be avoided. Efforts to maintain the credibility or honor of judges can be made through judicial reforms such as changing the status of judges. Judges who used to be civil servants who had to follow executive power turned into state officials who are independent and free from the influence of others, including the influence of direct superiors of judges and leaders of the Supreme Court.

The judiciary is a systematic institution whose functions are carried out by judges as individuals. The institution must support the judges so that they can carry out their roles as effectively as possible. Judges as officials must use their intellectual abilities to decide a case/dispute based on legal analysis and logic. However, the situation in which the institution and judge administration personnel are financed by the Executive is seen as a condition that causes judges unable to carry out their duties to the fullest. A judge's earnings or recruitment, and career are determined directly by the executive, making it easy for the executive to exert influence over a judge. Especially in Indonesia, where the culture of 'repayment' and respect for 'seniority' and 'superiors' are seen as noble values that are still practiced by many Indonesians.

The independence of judges has always been the subject of discussion in various national and international meetings in the field of law. This can be understood because the notion of Independence of Judicial Power ties directly with justice. Apart from the formal institutional understanding mentioned above, the independence of a judge can also be translated into the meaning of "freedom of a judge in deciding a case". This understanding is more accurately referred to as a material understanding or a substantial understanding. Both formal and substantial understanding cannot be separated from one another. The two are integrated and interrelated, supporting each other. An assessment of only formal understanding or only substantial understanding will result in imperfect understanding.

According to Kelsen, justice is an ideological concept, an irrational ideal to which law is intended. As a consequence of the commitment to live in a society and state based on law, in the common interest of one another, all members of society must obey the law. Law is a *sollenskategorie* and not a *seinskategorie*. The law commands people to act as they should. To illustrate: "Whoever buys goods must pay the price". This necessity is a "das sollen", a normative reality. It is said "should" because it does not matter whether someone likes it or can't afford it, when buying goods, they must pay the price. *Sollen* (ought) is completely detached from *Sein*.

The Pancasila becomes the basic and is further translated into the Second Paragraph of the Preamble to the 1945 Constitution; and articles in the 1945 Constitution, including Article 23, Article 23A to Article 23G, Article 27, Article 28, Article 29, Article 31, Article 33, and Article 34. The general understanding of justice in several respects has many similarities with the principle of social justice. Social justice pays attention to the relationship between individuals and others, and at the same time pays attention to the relationship between the whole society and its members.

On one hand, the Second Precept translates the word "justice" into the sense of respect for human rights whereas the Fifth Precept describes justice in an economic sense. Meanwhile, legal justice, which is the goal of the judicial system in Article 24, Article 24A to Article 24C of the 1945 Constitution, seems to have not been touched.

Based on the opinion of John Rawls, justice has a significant relationship with freedom (liberty) which can also be interpreted as "independence". Freedom can be seen from the three most important expressions of Human Rights. First, freedom of thought and expression stems from the idea that every expression of an individual's deepest thoughts and feelings will have an impact on society. Second, freedom of thought and expression is essential for developing knowledge, can

only progress and become good through the presence of welcoming new ideas and experiments in different ways of life, freedom to act and not hurt others, and freedom to organize in order not to hurt others. Third, justice and equality, even though they are always associated with law, in reality often stand against the law in the sense of statutory regulations or positive law.

John Rawls's view that connects Justice as the main virtue that cannot be separated from society becomes the Grand Theory in this paper. Justice gets a tangible form in every decision on a case carried out by a judge. Judges have the power to 'realize' justice, order, and peace in society. Justice in this paper suggests three main principles in various expert views who seek to find the meaning of justice, namely: (i) the Principles of Equality; (ii) the Principles of Difference; and (iii) Principles of Social Justice.

In a similar vein to the question regarding justice, the question of "what is law" is not easy to answer and over the years has given rise to many theoretical answers. The same applies to the question of "What is the relationship between law and justice?". From the era of Plato and Aristotle until this day, this question is still interesting to debate. For a long time philosophers have tried to explain, but what happens is a wider debate. It is much easier to understand injustice than to explain justice itself. The views regarding the relationship between the theory of justice and law in this paper will be reviewed based on three main groups in the analysis of legal philosophy: the relationship between law and justice based on the view of the Natural Law School; the relationship between law and justice based on the views of Positivism; the relationship between law and justice based on the view of the Sociological School.

Questioning the independence of judges, it is better if the thinking is oriented first to the existence of an independent judiciary. This is important to understand because the independence of the judiciary is a pillar of the rule of law. A law state places law at the top of the pyramid and makes it its commander.

A judge cannot be convicted for deciding a case that is different and contrary to the decision of a higher court. If a judge commits a criminal offense or is found to have committed an improper act, they may be punished with dismissal or disciplinary action permitted by law. The accountability of judicial power must be understood as such. If the judge's decision on a case becomes the object of accountability, it means that the notion of accountability has been drawn as broadly as possible and will seriously disrupt the independence of the judiciary.

Accountability can be developed through transparency. This process is included in the process of selecting and appointing a judge. The public may be allowed to know what is happening behind the court doors. The more transparent and open this process is, the higher the accountability of the judiciary is. If the process of selection and appointment of judges is more transparent and open to participation, the judicial power will obtain competent, independent, and impartial judges. This is important when the entire process, including the process of transfer, dismissal, and disciplinary assessment is carried out by the judicial authority itself. Without a transparent process and good judicial administration or management procedures, the judicial power will cover up irregularities or be reluctant to provide appropriate disciplinary action. This is simply because the judicial power institution maintains its reputation or personal relationships with judges. If a judge is expected to respond to all the arguments put forward by the public prosecutor or legal adviser in his decision, the judge will be more careful in considering and deciding cases. If the judge's decision is published to the public, the judge will reduce irrational statements or considerations. If the dismissal, termination, or disciplinary process becomes transparent and open to the public, judges who are corrupt or misbehaved cannot hide behind the reputation of their institution.

Cases related to a number of judges' decisions in court led to community rejection because of several reasons. People felt that the judge's decision did not embody a sense of justice, benefit and legal certainty. This should not have happened because there are still legal remedies provided for by law. As a result, appeals are always increasing every year. This indicates that there is dissatisfaction with the decisions of the Court of First Instance from justice seekers (justitiabeln), despite the small percentage of distribution. The honor and dignity of judges will fall apart if the judge behaves inappropriately, violates the code of ethics and the judge's code of conduct. Bad or disgraceful behaviors committed by judges can occur both inside and outside the trial. Improper or

bad actions that can occur in a trial include lying, hiding the facts in their legal considerations, and taking sides in the examination of the case. Disgraceful behaviors of judges outside the trial include judges blackmailing litigants, meeting with parties or their lawyers, and acting as case brokers or brokers.

The honor of the judge is the credibility of the Supreme Court, therefore it should be a priority for judges to avoid behavior that demeans or undermines the judge's dignity. Efforts to maintain the credibility or honor of judges can be made through judicial reforms such as changing the status of judges. Judges who used to be civil servants had to submit to executive power. Ideally, they are state officials who are independent and free from the influence of anyone, including the influence of direct superiors of the judges and leaders of the Supreme Court.

It is still common to find allegations of lack of synchronization in passing verdicts between a Court of First Instance and courts of a higher level. For example, at the district court level verdicts against perpetrators of criminal acts of corruption are given low sanctions, but at the Supreme Court level, the sentences are very high. This means the judge's understanding in assessing an offense that deserves heavy sanctions is not sufficient; it seems as if the judge is undermining the perpetrator's crimes. Another example includes a judge who pleads guilty to corrupt perpetrators but does not give them the maximum sentence. In cases like these, the judge deserves to be questioned for their integrity. The frequent occurrences of such cases lead to the legal community's skepticism or negative assumptions about the integrity of judges who are under the judiciary. The end result would be the institution receiving a bad rating from the public.

Weak supervision of judges causes this phenomenon to be considered a tarnishing of the good name of a law enforcer who should be able to enforce the law fairly without taking corrupt actions.

Research Methods

The approach used in the study is normative juridical. The method is descriptive-analytical that includes researching, describing, providing a detailed description, and analyzing the integrity of judges and their supervision. The data were analyzed by using qualitative normative analysis.

Discussion

Efforts to Build the Integrity and Independence of Judges in Realizing Fair Decisions

The theory of independent judicial power cannot be separated from the theory of separation of powers and the theory of the rule of law. An independent judicial power is also related to the rule of law theory. It is said to be related because the theory of independent judicial power is an important element of a state of law or a state based on law. According to M. Scheltema, the theory of independent judicial power is a derivative and the main element of the rule of law. M. Scheltema also stated that one of the main elements of the theory of the rule of law is the existence of legal certainty.

Judging from understanding the constitution, the independence of judicial power is the basis for the emergence of the right to assess all actions or actions to regulate legislation within the Constitution. The constitution is domiciled as a fundamental law in the state, which threatens the understanding that other laws and regulations may not conflict with the constitution or the constitution.

The Fifth Precept becomes the basis and is further translated into the Second Paragraph of the Preamble to the 1945 Constitution; and articles in the 1945 Constitution, including Article 23, Article 23A to Article 23G, Article 27, Article 28, Article 29, Article 31, Article 33, and Article 34. The general definition of justice in several respects has many similarities, with the principles of social justice. Social justice pays attention to the relationship between individuals and others, and at the same time pays attention to the relationship between the whole society and its members. The Second Precept translates the word "justice" into the sense of respect for human rights whilst the

Fifth Precept describes justice in an economic sense. However, legal justice, which is the goal of the judicial system in Article 24, Article 24A to Article 24C of the 1945 Constitution, seems to have not been touched.

It can be said that Aristotle was the first philosopher to try to find the difference between accountability and responsibility. He started from the idea that: "responsibility is driven by an individual, and accountability is caused by external reasons." However, many philosophers who came later thought that Aristotle's idea was seen as inaccurate because it seemed that responsibility and accountability were positioned as two opposite poles, balanced by justice, wisdom, honesty, and freedom.

Romzek compares accountability in a bureaucratic structure and a professional structure as an internal supervision mechanism. Within the bureaucratic structure, there is a very dominant control. In the professional structure, there is the autonomy that allows discretion to be exercised by the organization or by individuals. From the statements above, it is illustrated that accountability is an understanding that has two sides. On the organizational side, it is called accountability, while from the point of view of individuals or groups it is called responsibility. Therefore, when discussing accountability, judicial power must be seen as an institution/organization. Actions taken by a judge as long as they are within the scope of their duties and authorities must be viewed within the institutional framework or position or profession, not in a personal framework. If a judge gets drunk and hits someone at the bar, then they deserve to be held accountable. But if a judge disregards the evidence or does not consider the evidence of one of the parties without legal reasons, then accountability for the action can be demanded.

According to Cappelletti, the increasing demands for responsibility and accountability for judges are related to two things. These include the increasing role and power of the judiciary in modern society and a tendency to reject the concept that a court case is only a dispute between them and judges are only passive referees and do not have the power to oversee action and enforce certain values (for example the principle of equality before the law).

When public institutions fail to carry out their duties and cause unexpected losses, injustice, and waste people's money, accountability will mean an obligation to explain or report how the judicial power institutions will take responsibility and how the action will influence the community directly or indirectly. To illustrate, when a judicial power constructs a building with a high-tech security system, the judicial authority is obliged to explain publicly why the building is needed and how the infrastructure can provide maximum service for the community.

In addition, if the judicial power gains greater power, the greater the demands for accountability will be. Through the fight against corruption and quality improvement, the judiciary has contributed to giving the institution a positive reputation.

The procedural law system or the judicial process itself is always made by taking into account the principles of accountability. To protect their independence judges are granted a certain level of immunity. This should not be seen as a limitation on the accountability of judges. Judges are bound by law. They have to decide a case based on evidence, facts, and law. What has been decided by a judge can always be re-examined, corrected, and modified through an appeal or a cassation institution. All trials are conducted openly and can be attended by the public and the press. The reasons for each decision and how the case proceeds are always open to criticism from higher courts, by other judges, by other legal professions, academia, the public as well as the press.

It is not easy to accommodate the independence and accountability of the judiciary on an ongoing basis. In some countries, the principle of independence is put forward more than accountability. Even though accountability is also discussed as part of the responsibility of the executive, legislative or other institutions, the accountability of judicial power has a different meaning and form. A judge has accountability when examining cases honestly and impartially. Judges also have accountability for how they make their decisions. As long as a judge decides cases based on facts and enforces the law freely and impartially, they should be relieved of all responsibility, even if their decision may be overturned by a higher court.

Society doubted whether any judge in a higher judicial position would meet an expected standard of conduct. Because the judge is the one who provides the legal basis for the behavior of

others, the judge must demonstrate that their standards of conduct for themselves are as high as the standard of judgment they placed on other people. Judges must have the moral authority that demonstrates the trust that the public places in judges. The application of this integrity can be carried out through their actions at work and in the household or family and within professional, personal and financial relationships. If a judge has a conflict of interest in a case, he is obliged to resign as soon as possible. Such action may reduce the negative impact that may arise on the judiciary or the suspicion that the judiciary is not being carried out honestly and impartially. If a judge has doubts about the obligation to resign in examining and adjudicating a case, then the Supreme Court of the Republic of Indonesia in its Code of Conduct, recommends that the judge concerned should choose to resign.

This cooperation is expected to obtain an ideal judge whose morals are good in addition to having good legal knowledge. In addition, it is also necessary to avoid subjective attitudes, collusion, and nepotism related to staffing problems (appointment, dismissal of ranks in positions, transfers, and so on). This will be more complete when accompanied by guarantees in the field of legislation relating to employment. Therefore, it is hoped that judges will not be easily influenced by any kinds of temptations, both moral and material, which can be in the form of higher positions or wealth.

The independence and accountability of the judiciary are very important because the existence of the judiciary as a public service institution does not only provide services to certain individuals or groups but also provides services to anyone in need, especially justice seekers (*justitiabelen*).

In relation to Integrity is philosophy. Philosophy is expected to help humans gain intelligence and enlightenment by using reason to think about something in-depth. To face and solve a problem to its root does not only involve looking at the outside or the surface of an event. Therefore it would be ideal that someone approaches a problem with wisdom. Although paying close attention to the positive legal provisions that apply in a community organization, including a country is still expected, a judge who views a problem from a philosophical point of view tends to be able to apply an article in the rule of law in a more humane manner. This is as described by Darji Darmodiharjo as follows.

If an individual does not have the courage to ask sharp questions for certain reasons, then their expertise or knowledge will not be of much use. Likewise, during the judges' deliberation process in producing a decision, often a judge will face other judges to discuss the matter at hand which often leads to heated debates until the deliberation process was forced to end with a dissenting opinion because the discussion has hit a dead end. Thankfully, within the judges' culture, this is something that happens often so their professional relationships are not affected negatively for a long time even though the deliberation fails to reach an agreement.

To be a capable and wise person with high integrity requires a sensitive heart. In order to have a sensitive heart, a simple life should always be the lifestyle adopted by a judge. How can you feel suffering if your lifestyle is excessive? Besides hurting other people who see it, it is also not worth showing when the condition of the nation is still full of poor people. How one measures one's life situation may be relative but we can use our conscience and use it as a guide in living the principles of life.

Act respectfully and properly. Leaders who have high integrity certainly have the ability to act honorably and correctly. Always trying to maintain self-respect will have an impact on the honor of the family, the environment and can also have an impact on the biased community. To maintain self-respect they would be careful in their actions so as not to make a mistake that will damage their reputation. A judge is a leader in their environment, among other employees such as the Substitute Registrar, Legal Department, General Section, and so on. All positions require good leadership so that they can support each other to complete their duties to produce a decision that allows a sense of justice to exist in society.

The judge's efforts in law enforcement should be based on goodwill, with the perspective of moral and true interests. It is not vice versa in its implementation based only on achieving and protecting those in power or their groups. It is clear here that those who suffer and become victims

are often the object of law enforcement efforts. Even in the implementation of law enforcement, what is called a "crime against criminals" occurs. Presumably, the contribution of judges in law enforcement should be more based on legal objectives that are able to present a sense of justice desired by the community. The authority of a judge who has the legitimacy to produce a black and white decision in a legal community conflict will have a noble value if the meaning of "For the sake of Justice based on God Almighty", is addressed based on the conscience of a vertical belief. It is in this context that judges must have an understanding of integrity so as not to injure the meaning of justice, which can be demonstrated through the judicial process in court.

At the least, the moral decision-making habits of a judge would have a strong influence on other law enforcers in carrying out more responsible law enforcement. This is because when law enforcement is carried out in a deviant way, it is difficult for the legal community to forgive, not only for individuals, but even more stringently, the legal community will condemn law enforcement institutions.

Ethics has become a benchmark or standardization in the legal profession. Ethics contains principles for evaluating a good or bad action, which includes the value of right and wrong. This means it is also related to the standards regarding the value of right and wrong that must be used as a guide for someone to do or not to do something that is detrimental to themselves, their institution, or their profession. They must be able to keep moving in the corridor of rules that can maintain the existing values and principles of goodness.

The integrity of law enforcement officers is maintained when assisted by an ethical advisor. It is even necessary to establish an ethics commission for law enforcement officers. Ethics advisors or ethics committees play a role in raising ethical awareness in public services to improve the ethical performance of law enforcement officers. The role of the Ethics Commission is as follows: (a) remind law enforcement officials to record unethical practices by preventing and punishing; (b) raise the awareness of public officials and prospective public officials to be sensitive to the dimensions of ethical values in bureaucratic decisions. Ethical behavior will reduce uncertainty in public policy owing to clear procedures and legal certainty; (c) help develop skills in analyzing ethical and value issues as well as assist law enforcement officials in solving ethical problems and ethical dilemmas thereby promoting the development of moral consciousness.

Professional integration also contributes to the development of ethical competence because it allows the person in charge of law enforcement to apply ethical principles in concrete matters. Education will increase sensitivity to ethical issues and can develop competence in ethical analysis and moral reasoning. A fair or impartial view can contribute to creating a work environment that encourages achievement. Then professionalism and ethical standards will become guidance. Thus the mechanism for mentoring and internal consultation has a real impact, namely that public officials take into account ethical standards in a professional framework.

The amount of power carries the consequence of great responsibility. This entails the responsibility of a person in charge of law enforcement. They must know their rights and obligations when they make a mistake and understand that there is a legal defense with things that can be improved until they have to face legal sanctions. They need to know their rights and obligations regarding allegations within the framework of law enforcement. There must be rules, procedures, and a set of responsibilities that are clearly defined so that they know the protection that can be obtained when taking actions that have legal consequences. The certainty of the limits of responsibility cannot be separated from the ethical framework.

Efforts that need to be built and developed are coordinating and collaborating between elements of the law enforcement apparatus that are integrated with a forum as has been done such as the Mahkejapol forum (the Supreme Court of the Republic of Indonesia, the Attorney General's Office of the Republic of Indonesia and the National Police). However, it turns out that the forum still needs to be improved because there are other institutions that are not managed. In its development, real strategic steps are needed, including building and developing synergies in the performance of the components of the Criminal Justice System. This can be done through consultation forums, communication, case titles, and legal studies between law enforcement agencies as well as regular meetings between law enforcers and legal aid agencies, legal

practitioners, and law-abiding communities. One roof law enforcement education (one roof system) which was implemented by the Ministry of Law and Human Rights in Cinere Jakarta in 2000, is very useful for law enforcement officials. The benefits of consistent legal counseling to the community through the Kamtibnas gathering forum, which has been running so far despite experiencing many obstacles in the field, are very good for the community in order to help raise legal awareness.

Other efforts that need to be made or suggested in building legal awareness, legal compliance, especially for law enforcement officials are as follows. First, the government together with legal institutions, legal practitioners, legal experts, and law drafting institutions should immediately carry out regulations. They need to work on the formation of laws by formulating regulations, the mechanism of the proceedings for handling violations of the professional code of ethics, and the provisions of the professional code of ethics of the criminal justice system. By doing so, it is expected to prevent the practice of judicial mafia or legal mafia, criminalization of law, legal intervention, the politicization of law, legal deliberation, and legal disparity. In addition, it is important to establish clear and firm criminal sanctions complementary to other sanctions in the context of law enforcement that is fair to state administrators.

HR recruitment issues sometimes do not get serious attention. Addressing such issues is considered not to have a short-term impact. However, the long-term impact is evident. Therefore, to improve the human resources of judges in the future, this recruitment issue needs serious attention. This seriousness is indicated by the academic quality of prospective judges and the transparency of procedures.

Many parties stated that promotion in the ranks of judges was one of the worst. In fact, it is not uncommon that such a framework of this promotion affects judges to make deviations. It seems that the promotion and emotion is not synchronized. Therefore, improvements must be made. The ranks and filling of existing structural positions must be filled by those who are qualified according to their level.

The principle of reward and punishment should be implemented wisely and rationally since it acts as a large institution that works with a system. However, it seems that this is still a long way off. It is as if this principle does not apply in the judiciary. This system needs to be implemented consistently by taking its advantages. For those who excel, but have a mindset that is opposite to the leader, they get punishment; even though it should be rewarded. It is as if the leader has the legitimacy to distort their authority.

Improving the welfare of this problem should not be said to be a classic problem because the fact is that until now there has not been a reasonable and rational solution. The low allowances and salaries of prosecutors and the absence of facilities have become criminogenic factors, giving rise to collusion between judges and suspects or defendants. When a judge whose economic life is not fairly strong, in the sense of being far away from having an established life, while the case being handled is corruption which is of course closely related to the nominal value which is usually very large, and hundreds of millions to billions, even reaching, trillions, then such a situation will logically be very prone to possible deviations. In fact, it is certain that when someone is caught in a corruption case, they will try to offer some money, no matter how much it costs they will try anything if it means the person concerned is released from corruption. Such a vulnerable condition should be immediately addressed with a rational approach to the very minimal welfare of judges, as is currently the case. This is intended to minimize the possibility of large-scale deviations.

The Supervisory Body of the Supreme Court of the Republic of Indonesia is always assigned to examine the veracity of the complaint even though it is known that the complaint letter is an anonymous letter. If the truth of the complaint is proven or not proven to be the essence of the complaint, but it is found in the course of the trial as a violation of formal law or violating the provisions of the articles of PERMA Number 01 of 2008. It is categorized as an unprofessional act. The Supreme Court always prescribes strict punishments in order to clean up institutions and restore public confidence in order to build the court's authority. Building the independence and professionalism of judges is carried out in order to restore public trust and build an authoritative judiciary.

Indeed, it is not only the profession of judges who are obliged to take an oath before taking up their positions, but all civil servants and state administrators are also required to take an oath before taking up their positions. When a judge makes a decision in the name of God as stated in the sound of *irah-irah*, then the position of the judge is often identified as the representative of God because only the judge is given the authority to declare someone guilty or not and impose punishments including the death penalty. Not a single position is legally authorized to take human life apart from judges, so with such a large amount of authority granted by law, the most important responsibility in the function of adjudication is direct to God Almighty.

A judge who has a solid foundation of faith will be afraid to betray his conscience because what is most hidden will always be known by the Creator. A judge who has faith and piety will be impervious to all influences that come to them because they are always in the shadows of God's punishment. The punishment would be very painful if they make an unfair decision according to their conscience and since they only fear God's punishment, they are never afraid of any external pressure and threat.

The value of justice can be considered from various aspects. It does not always have to be a law that becomes a measure of justice. This has been exemplified in several progressive law enforcement that led to a few phenomenal decisions. For example, Bismar Siregar has expanded the word "goods" in the elements of Article 378 of the Criminal Code while Asikin Kusumaatmaja in the Supreme Court Cassation Decision Number: 2263 K/Pdt/1991 once granted the lawsuit more than what was demanded (*ultra petite*). Although the decision was overturned at the PK level by the Supreme Court Decision Number: 650 PK/Pdt/1994, many people actually considered that Bismar and Asikin Kusumaatmaja's decision contains the values of substantive justice and provides a new space in the development of law in Indonesia.

People who violate the oath of their position are the same as those who violate the ordinary oath, but the legal consequences are different. Accountability to the general public is the fulfillment of the oath of office that has been taken. People who have violated their oath of office should apologize to the public in the form of returning to their original positions and an open apology. If this is not done, we as a society must give moral punishment. The moral punishment can be in the form of not electing people who have violated their oath of office.

Sanctions against judges who do not carry out their oath of office have not yet been explicitly regulated in the laws and regulations. It is well known that those authorized to form laws and regulations are the Government and the DPR which represent political parties. There is a bigger political agenda than law enforcement, so the regulations seem to provide space for someone to violate the oath of office.

The policy of sanctions against judges who do not carry out the oath of office should be formulated in statutory regulation. It can be used as a legal umbrella for law enforcement to carry out their duties to provide sanctions because the legal system requires the existence of laws and regulations that state that everyone can be subject to sanctions. If there are no regulations that regulate this aspect then the sanctions cannot be implemented. Sanctions against public officials who violate their oath of office that is deemed to be the most appropriate and can have a deterrent effect are criminal sanctions with a penalty of five years. This is because someone who has served a criminal sanction that is punishable by a five-year sentence is prohibited from becoming a judge again.

The Need for External Supervision of Judges in Deciding a Case

Extra-judicial powers that can affect the freedom of judges are the appointment and dismissal of judges. It has become a common tradition that the appointment and dismissal of judges are carried out by the President as the Head of State. This authority can affect the freedom of judges. There is a kind of dependence on judges on executive power. To avoid this possible influence, a mechanism is needed that will negate this influence.

The appointment and dismissal of judges in Indonesia are currently carried out by the President. The Supreme Court Judges are appointed by the President; the candidates are proposed

by the DPR and the Judicial Commission. For every seat of the Supreme Court Justice, the DPR proposes two candidates. The president is free to choose one of the two candidates or even reject all proposed candidates. Thus, in the end, it is the will of the President that determines whether a person becomes a Supreme Court Judge.

The system of appointing the Supreme Court Judge in Indonesia differs from the system in the United States. Prior to being appointed, candidates for Supreme Court Justices are proposed by the President to the Senate for examination and confirmation. The Senate reserves the right to reject any candidate proposed by the President. The President can only appoint Supreme Court Judges who have the approval of the Senate. Thus the deciding sector is the Senate, not the President. The system that is run in the United States can be seen as something that is more in line with the notion of democracy and the role of representative bodies to oversee the administration of the state and government.

According to the notion of democracy, to fill certain state positions the approval of the people or the people's representative body must be obtained first. In terms of supervision, Senate confirmation represents the manifestation of the "checks and balances" system as well as proof that it is truly the people's decision and not the President's. The President should be the one being supervised, not the one who is supervising.

Supervision in the process of handling environmental cases also needs to be carried out so that the handling of such cases can run efficiently. Environmental cases should be resolved quickly considering what is at stake. If the process of handling environmental cases drags on, the rapid rate of impact from pollution and other environmental destruction factors will be detrimental to life, the environment itself, and the environment's substantial costs.

In the context of this discussion, the regulatory role of the Supreme Court can be seen in the arrangements related to obtaining environmental certificates, the placement of environmental judges, organizing courts that do not have environmental judges, and many more as stated in the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia No.134, KMA/SK/IX/2011 concerning Environmental Judge Certification. This arrangement is intended to ensure the smooth running of the court, especially in dealing with environmental cases. Furthermore, apart from supervising the Supreme Court, it also conducts evaluations. This is in accordance with Article 22 of the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia No.1 34/KMA/SK/IX/2011 concerning the Certification of Environmental Judges. The Supreme Court has the authority to supervise environmental judges which are in accordance with what is in effect at the Supreme Court. Additionally, the Supreme Court has the authority to evaluate the performance of environmental judges where the results of the evaluation are used as the basis for improving the ability of environmental judges and providing incentives and disincentives.

Supervision is carried out to ensure that the administration of the court fulfills the guidelines in line with the principle of justice that is simple, fast, and economical--does not incur high costs. The supervisory function is also carried out on the attitudes and behavior of legal actors, including judges and court officials in carrying out their duties. Supervision is carried out based on the code of ethics and code of conduct for judges set by the Judicial Commission and the Supreme Court. In the context of this discussion, supervision carried out by the Supreme Court for environmental judges is important. Supervision of the legal attitudes and behavior of environmental judges needs to be done because, in reality, collusion often occurs between environmental judges and one of the litigants as well as an unfair or one-sided attitude towards one of the disputing parties.

Supervision in the process of handling environmental cases also needs to be carried out so that the handling of such cases can run efficiently. Environmental cases should be resolved quickly considering what is at stake. If the process of handling environmental cases drags on, the rapid rate of impact from pollution and other environmental destruction factors will be detrimental to life, the environment itself, and the environment's substantial costs. The Supreme Court has the power to regulate all things that may be needed in the continuity of the administration of the court. The Supreme Court serves as a complement to fill the legal vacuum, for the smooth running of the court.

In the context of this discussion, the regulatory role of the Supreme Court can be seen in the arrangements related to obtaining environmental certificates, the placement of environmental judges, organizing courts that do not have environmental judges, and many more as stated in the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia No.134, KMA/SK/IX/2011 concerning Environmental Judge Certification. This arrangement is of course intended to ensure the smooth running of the court, especially in dealing with environmental cases.

Furthermore, apart from supervising the Supreme Court, it also conducts evaluations. This is in accordance with Article 22 of the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia No.1 34/KMA/SK/IX/201 1 Concerning the Certification of Environmental Judges. The Supreme Court has the authority to supervise environmental judges in accordance with what is in effect at the Supreme Court. The Supreme Court also has the authority to evaluate the performance of environmental judges where the results of the evaluation are used as the basis for improving the ability of environmental judges and providing incentives and disincentives.

Conclusion

1. The integrity of judges is currently not fully realized. To date, there are many decisions that favor certain parties. In handling cases, judges must be independent and have integrity, so that the decisions issued can create a sense of justice. Furthermore, a judge is bound by a judge's professional code of ethics which requires them to be honest, fair, and have integrity. The objectivity of judges in deciding is a form of upholding human rights in the judiciary. One of the efforts to realize the objectivity of judges in the judiciary is using the panel of judges in the trial.
2. External supervision of judges requires optimization by not only providing recommendations but also giving the authority to set sanctions. The current Judicial Commission, an institution that is given the authority to supervise judges, is still constrained by the Supreme Court. They are still the ones who decide sanctions against judges who have committed violations.

Recommendations

1. It is necessary to improve the welfare of judges, to ensure judges who are handling cases are not distracted. It is also necessary to recruit judges with quality, integrity, and competence in order for their duties to be executed properly
2. It is necessary to enforce strict sanctions against judges who cannot reflect integrity in carrying out their duties in accordance with the judge's professional code of ethics as well as enforce criminal sanctions for the oath of office.
3. It is necessary to alter Law No. 18 of 2011 regarding Amendments to Law No. 22 of 2004 concerning the Judicial Commission granting the authority to decide sanctions against judges who committed misconduct.

Endnotes

Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hakum Pidana Dalam Penanggulangan Kejahatan*, Jakarta: Kencana Prenada Media Group, 2008), p. 3.

Chairil Utama, in Faisal Santiago, *Akuntabilitas Mahkamah Agung*, APPTI, Raja Grafindo Jakarta, 2016, p. 23

Chairil Utama, in Faisal Santiago, *Akuntabilitas Mahkamah Agung*, APPTI, Raja Grafindo Jakarta, 2016, p. 23

Chairil Utama, in Faisal Santiago, *Akuntabilitas Mahkamah Agung*, APPTI, Raja Grafindo Jakarta, 2016, p. 23

Definition of "equility" before law can be found in Article 27 UUD 1945, that becomes a philosophical foundation of "equality before the law".

Definition of "equility" before law can be found in Article 27 UUD 1945, that becomes a philosophical foundation of "equality before the law".

Definition of "equility" before law can be found in Article 27 UUD 1945, that becomes a philosophical foundation of "equality before the law".

The relationship between one individual and another is seen as corrective justice, which shows an agreement between two people. The relationship between the whole society and each of its members is referred to as distributive justice, which pays attention to the distribution of all things evenly and proportionally. See Moris Ginsberg, *op.cit.*, p.52

Romzek, Barbara. "Where the Buck Stops: Accountability in Reformed Public Organizations", dalam *Transforming Government: Lessons from the Reinvention Laboratories*, Jossey-Bass Publishers, San Francisco, 1998, pp. 193-219.

Prefontaine, Daniel C. dan Joanne Lee, *The Rule of Law and the Independence of the Judiciary*, makalah pada World Conference on the Universal Declaration of Human Rights, Montreal, 1998, p. 13.

- 11 Nomensen Sinamo, *filsafat Hukum dilengkapi dengan materi Etika Profesi Hukum*, Permata Aksara, Jakarta, 2014, p. 6, citing Darmodiharjo, 2004:16-17
- Anggraeni Indah P, *Problematika Yuridis Eksistensi Asas Legalitas Dalam kerangka Penemuan Hukum Pidana*, Jurnal Iimiah Universitas Brawijaya, Malang, 2013, p. 5 See also Antonius Sudirman, Op.cit, p.210
- Anselmus Ragamilo, *Analisis Yuridis Dan Sosiologis Terhadap Putusan Kasus Kedung Ombo*, cited from jurnalperspektif-fhuwks.blogspot
- Ibid
- The Supreme Court Justices are appointed by the President and the names of the candidates proposed by the House of Representatives (Article 8 paragraph (1) of Law No. 5 of 2004 concerning the Supreme Court). The candidates for Supreme Court Justices as referred to in paragraph (1) are chosen by the House of Representatives and the names of the candidates proposed by the Judicial Commission (Article 8 paragraph (2))
- Bagir Manan, Op.cit. p.14.
- U.S. Constitution, Article 2 Paragraph (2)

REFERENCES

- Anggraeni, L.P. (2013). Juridical problems of the existence of legality principles in the framework of the discovery of criminal law. *Scientific Journal of Brawijaya University*, Malang.
- Anselmus, R. (n.d). Juridical and sociological analysis of the decision on the kedung ombo case. Quoted from jurnalperspektif-fhuwks.blogspot
- Barda, N.A. (2008). *Law enforcement issues and criminal law policy in crime prevention*. Jakarta: Kencana Prenada Media Group.
- Chairil, U., & Santiago, D.F. (2016). *Supreme court accountability*. APPTHI, Raja Grafindo Jakarta.
- Nomensen, S. (2014). Legal philosophy is equipped with material on legal professional ethics. Permata Aksara, Jakarta.
- Prefontaine, D.C., & dan Joanne L. (1998). The rule of law and the independence of the judiciary. Paper on World Conference on the Universal Declaration of Human Rights, Montreal, 1998.
- Rizal, M. (2002). Human Rights and Analytical Philosophy Review". In *JENTERA Law Journal*, Edition 01.
- Romzek, B. (1998). "Where the buck stops: Accountability in reformed public organizations". In *Transforming Government: Lessons from the Reinvention Laboratories*, Jossey-Bass Publishers, San Francisco.

<p>Received: 16-Apr-2022, Manuscript No. JLERI-22-11830; Editor assigned: 19-Apr-2022; PreQC No. JLERI-22-11830(PQ); Reviewed: 05-May-2022, QC No. JLERI-22-11830; Revised: 11-May-2022, Manuscript No. JLERI-22-11830(R); Published: 16-May-2022</p>
--