

## **Function Of The Court Of Honorary Of The Council As A Competition Equipment Of The House Of Representatives Of The Republic Of Indonesia**

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### **Abstract**

The purpose of this study is to know and analyze the position of the Council's Honor Council after the coming into effect of Law No. 17 of 2014, and to know and analyze the functions of the Court of Honor Council. The approach method used in this study is the normative method, namely the investigation of the principles of law, synchronization of law and legal syllables in respect of the position and function of the court of honor of the people's representative council,

**Keyword:** Function, The Court Of Honor

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### **I. INTRODUCTION**

In Law No. 17 of 2014 on the People's Consultative Assembly, the People's Legislative Assembly, the Regional House of Representatives and the Regional House of Representatives (MD3) the position of the Court of Honor is clearly stated as the working unit or the completeness of the DPR RI. The background of the formation of the Honorary Court of the Council can not be separated from various public scrutings or opinions that are not satisfied with the performance and capacity of the members of the board in performing their duties. The public assessed the rise of behaviors that reflect the nefarious nature of board members such as corruption, collusion and nepotism (KKN) make people as unbelieving or deprived of their hopes for members of the council who are acting in their behalf as representatives of the people. This became the people's demand for reform. Given the importance of the position and role of members of the People's Legislative Assembly as a representation of the people does not guarantee that the performance of members of Parliament is satisfactory. Many members of parliament who have been ensnared in legal cases coupled with too easily the members of the House to be a witness in a case, such as corruption. This makes the people's view of DPR members worse off. It is also recognized by the vice chairman of PPP Lukman Hakim Saifuddin, that currently the parliament has lost the trust of the people. Therefore, the House of Representatives election results 2014 should be better than before.<sup>1</sup>

The establishment of the Council's Honorary Court in this state institution is a response to the public spotlight of the poor performance of the councilors. However, it was initially named Board of Honor (DK) before it was inaugurated as a permanent fittings and renamed the Board of Trustees (BK) in 2003 and later changed to the Court of Appreciation Council (MKD) as it is today. A right and (both) obligations are embedded and embedded within the legislature, and both must be run proportionally when a legislator assumes his role in the representative body of the people.<sup>2</sup>

Prohibitions for parliamentarians have been in place to support the performance of the MKD in investigating alleged violations of the code of ethics by members of Parliament. Such restrictions are contained in the DPR RI Decree on the Code of Ethics of the House of Representatives (DPR), among others, Article 9 paragraph (1) and (2) stating that members are not allowed to use official travel facilities for purposes other than the duty of neglect; members may not be able to bring a family on an official trip, unless permitted by law or at their own expense. Then Article 11 states that members are prohibited from receiving rewards or gifts from other parties in accordance with the provisions of Article 13 of the law states that members are prohibited

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<sup>1</sup> See, Kompas, *Menatap Indonesia 2014 : Tantangan, Prospek Politik Dan Ekonomi Indoneisa*, (Jakarta: Buku Kompas, 2014), hlm. 131

<sup>2</sup> Satya Arinanto & Nunuk Triyanti, ed., *memahami hukum.....* hlm.487

from using their positions to influence the judicial process for personal and / or other interests. Article 14 states that members are prohibited from using their positions to seek the privileges and benefits of their personal, family, relatives and cronies that have business or planting in a business field. And finally, in Article 17 paragraph (2) it is stated that members are not allowed to make contact with their partners in order to request or receive rewards or gifts for personal gain. As a parliamentary fittings in charge and has the authority to supervise and take action against all ethical violations allegedly committed by members of the House of Representatives MKD would need the participation of civil society or society in maintaining the honor and nobleness of the image of the representatives of the people. The role of the community in assisting the MKD task is to report all actions of members of parliament who are considered to violate the code of ethics. Due to the existence of this report MKD will conduct investigation and verification so that its function can work as a board fittings. Therefore, the paraphernalia of the parliament is not able to work alone but with the participation of the community as a supporter. However, the reports reported by the public to the MKD will be suspected of violating the code of ethics by members of the House of Representatives must comply with the provisions already contained in the Law or the rules of the House of Representatives and other regulations governing the code of ethics of the House of Representatives.

## **II. PROBLEM FORMULATION**

Based on the above background then the main issues to be studied are how is the position of the Council of Honor Board after the coming into effect of Law No. 17 of 2014 and how is the Council's Honorable Function Under Law No. 17 of 2014?

## **III. THEORETICAL FRAMEWORK**

### **The concept The Rule Of Law**

The Rule Of Law is a state based on law and justice for its citizens. The meaning is all the authority and actions of the tools of state equipment or in other words regulated by law. Such a thing will reflect justice for the social life of its citizens.<sup>3</sup>

The thinking of the legal state began from Plato with the concept "that good state governance is based on a good (law) arrangement called *nomoi*". Then the idea of a popular legal state in the 17th century as a result of the political situation in Europe is dominated by absolutism. In its development, the state of law can not be separated from popular understanding. For in the end, the law that regulates and limits the power of state or government is defined as a law made on the basis of people's power and sovereignty. In relation to the rule of law, the sovereignty of the people is a material element of the rule of law, in addition to the welfare of the people.

One of the important principles of the rule of law is the principle of legality. The principle of legality is closely linked to the idea of democracy and the idea of a legal state. The idea of democracy demands that every form of law and various decisions get the consent of the people's representatives and as much as possible to pay attention to the interests of the people. The idea of a legal state demands that the administration of the state and the government be based on the law and guarantee the basic rights of the people as stipulated in the Law..

According to Sjachran Basah, the principle of legality means the effort to realize a harmonious integral duet between the rule of law and the sovereignty of the people based on the principle of monodualitas as pillars, whose nature is constitutive. The application of the legality principle, according to Indroharto, will support the enactment of legal certainty and the enactment of equal treatment.<sup>4</sup>

The rule of law is the type of state common to the nations of the world today. The rule of law leaves the type of state that governs according to the will of the ruler, Since the change, the state is governed by a law that has been made and provided beforehand as well as the controller is subject to the law. The law prefers form rather than content. The legal state does not care about the moral content of humanity that must be contained therein. With these characteristics, then the state law becomes synonymous with building legislation. Its quality is only determined by its submission to the law. This type is commonly referred to as a formal legal state (*formele rechstaat*). There is no certain standard of humanity as a determinant. The ruler becomes free to determine and follow the politics he makes himself. The only determinant is the wisdom he makes into the law. Legality becomes the basic principle does not need to pay attention to legitimacy. The state of the law is a term that, although it seems simple, yet contains a relatively long historical content of thought. The legal state is an

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<sup>3</sup>Abdul Aziz hakim, *Negara Hukum dan Demokrasi*, (yogyakarta : Pustaka Pelajar),2011, hlm.8.

<sup>4</sup> Ibid.

Indonesian term that is made up of two syllables, the state and the law. The equivalent of this word shows the form and nature of the contents filling between countries on the one hand and the law on the other. the purpose of the state is to maintain the order of law (rechtsorde).

The Indonesian state of law has been established for more than sixty years. Qualification as a State law in 1945 is read in the Elucidation of the 1945 Constitution (before amendment) and Article 1 paragraph (3) of the 1945 Constitution (after amendment). In the explanation of the system of state government "said" Indonesia is a state based on the law (Rechstaat). Further below it is explained, the state of Indonesia is based on the law (rechstaat), not based on mere power (machsstaat).

#### **IV. DISCUSSION**

Ethical issues in public services are directly related to the execution of officials in the public office. Such people must act as ethical standards, display moral values such as good faith and other principles necessary for healthy living in society. When a person is elected to public office, puts the public in trust, and hopes that it conforms to ethical standards. Thus, this person must be the level of trust and perform his function as follows certain values, principles, ideals and rules. Similarly, civil servants must make a commitment to promote social equality, strive to create jobs, develop citizenship and strengthen democracy. For this he must be prepared to implement policies that benefit the state and society of social, economic and political levels.

A professional performing a public function must be able to think strategically, innovate, cooperate, learn and forget when necessary, develop more effective ways of working. Although the case of corruption in public service is the result of professionals who do not work in an ethical way. Generally speaking in outline, ethics or ethics is a branch of philosophy that talks about right and good behavior in human life. Ethical philosophy is not only concerned with the question of right and wrong as in the philosophy of law, but more than that it is a matter of good and bad. The main purpose is good life (the good lije) is not just a life that is always right and never wrong. In practice, however, both concern the substance which is the essence of ethical issues, right and wrong, and good and bad human behavior in the common life. However, in everyday concrete conversations, most people usually prefer the right or wrong, right or wrong. Because, right-wrong is easier and more obvious to the eye. In the case of food alone, Muslims are taught by the Qur'an to eat only "halal food again" but in the practice that people think is only "halal food" (halalan), ignore the "good food" (thoyyiban) . In fact, in the Qur'an, the two concepts of halo thoyyiban (halal again good) it is a unity of conception about the recommended food. Food can be distinguished between (i) halal but not good food, (ii) good but not kosher food, and (iii) unlawful and unfavorable food. The three types of food are not recommended or ordered in the Qur'an. The order commanded firmly to be eaten is (iv) halal food again good ..

Similarly, in the discussion of ethics, many writings that are easy to explain about various ethical issues with the correctness of wrong-only. Especially with the development of a new tendency which I call as a symptom of ethical positivization where peru-nan about ethical values and standard of ideal behavior begins to be written and awakened institutional system of enforcement concretely in practice, causing people's understanding of ethics to grow and develop into such as legal norms too, that involves a more dominant notion of right-and-false rather than good judgment. In general, experts describe the system of ethical philosophy in 4 branches, namely as follows. Descriptive ethics: ethics regarding the right and good behavior as people think. Normative ethics or prescriptive ethics: ethics pertaining to eligibility that is judged to be done, Applied ethics: ethics pertaining to moral knowledge and how knowledge is manifested in practice, and Meta ethics: ethics that discusses what is right and either itself.

The following descriptive ethics is concerned with the various fields of study: religious ethics, value theories, economic philosophy, political philosophy, legal philosophy, deontic logic, action theory, practical reasoning ), morality, visual ethics (visual ethics), ethical beliefs (ethics of belief). While prescriptive or normative ethics concerns what people should believe as right and wrong, or good and bad.

Public Sector Ethics, applied ethics which is also highly developed today is an ethical system in the public sector and the implementation of state power. This is commonly referred to as government ethics or ethics in public administration which is often misunderstood as if only concerned with government ethics in the narrow sense, that is related to officials in the executive government. However, in the American English sense, government ethics is meant in a broad sense, covering the whole aspect of the ethical norm system which binds and guides to the administrators of state power as a whole. In fact, now, with regard to this in various international forums, it is often embarked on an important agenda that produces various international conventions on ethics for public officials.

The phenomenon that arises in the XX century is the emergence of the desire to uphold the code of ethics and code of behavior in forma. In Indonesia, for example, professional organizations that can be said to be the first pioneers to develop this code of ethics are the Indonesian Doctors Association (IDI). Since before independence the doctors are familiar with the understanding of medical ethics. However, since the establishment until now, has not heard of a doctor who was dismissed for violation of the professional code of

ethics. In fact, in practice from the past until now there are often many cases of mal-practices everywhere. Why has not many been sanctioned by professional ethics? The answer lies in the fact that the codes of ethics developed and practiced so far are only formal, and have not really been enforced in practice. New ethical codes are treated as guidelines for work and guidance of ideal behavior not yet equipped with institutional infrastructure that can independently enforce the code effectively.

Ethics is character, character, decency. in general ethics is part of the philosophical discussion, even one of the branches of philosophy, Shidarta further states about philosophy, first of all to be distinguished is that philosophy is not always interpreted as a science. Philosophy can also mean a view of life. As a science, philosophy is a process that continues to roll and do not know the word is over. Instead philosophy as a view of life is a product (values or value system) is believed to be true and can be used as a guide to behave by an individual or society.<sup>5</sup>

Muhammad Nuh asserted as follows: According to etymology (language) the term ethics derives from the word ethos (Greek) meaning character, character of decency, or possessed by individuals or groups to judge whether the acts have been judged to be right or wrong, either or bad. Ethics is a reflection of self control because everything is created and applied from and for the benefit of the individual and the group itself.<sup>6</sup>

Ethics can be seen from the distinction. Thus, there is ethics in the sense of science (philosophy), but there is also ethics as a value system. The ethics of the legal profession can actually be viewed from both of these meanings. If the meaning of professional ethics is limited to the code of conduct imposed by each legal profession organization, it is in the context of ethics as a value system. But if the ethics of the profession is systematically, methodically, and objectively examined for the rationality behind the moral reasons of the chosen value system, then professional ethics in this case is a part or branch of science (philosophy).

Honor is an extra value that everyone has, but it does not mean that everyone has one higher value than the other. More value is meant is how work, or work ethic so that he is considered worthy of the predicate. Honor is about the value of human life itself that is the dignity and the dignity of human life. But honor is often misunderstood, where with the 'honor' it has, one can rule over others. He considers himself more than anyone else. This is where often the oppression of the rights and dignity of a person as a human being. Honor here is more defined as prestige, prestige, predicate, power, which can indicate a higher position than others. In other words, honor can contain two senses. First sense, honor is the value of human life itself. The second insight, the honor literally aimed at the level of prestige, the more prestige that leads to the elevation of one's self esteem. This second sense is dominant in our social relations.

The modern parliamentary institutional system allows the establishment of ethical enforcement agencies for parliamentarians. This is based on the idea that a better-evolved parliament makes it possible to be supervised against every behavior in carrying out its institutional tasks. Oversight of the conduct of parliamentarians can come from outside the institutional parliamentary as well as from the internal parliament. External supervision can be done by constituents directly or by political parties. Internal monitoring can be done by an institution formed by the parliament itself, commonly called the Honorary Board (BK) or the Court of Appreciation Council (MKD).

Analyzing the Status of the Court of Honor Council (MKD) in Enforcing the Code of Ethics of the House of Representatives (DPR) Based on Law no. 17 Year 2014 About the MPR, DPR, DPD, and DPRD, can be traced in the history of parliament in Indonesia the existence of ethical enforcement agencies began to be introduced when the beginning of reforms when the enactment of Law no. 4 of 1999 on the Composition and Position of the MPR, DPR, and DPRD. This Law does not explicitly mention the existence of ethical law enforcement agencies, the provision of Article 37 paragraph (2) letter c mentioning the formation of DPR's fittings based on the integrity of the DPR, including the completeness of the board's ethics upgrading body. The existence of fittings to enforce ethics is implicitly mentioned in Article 42 paragraph (3) which regulates the mechanism of imposing sanctions on members of the DPR who violate the prohibitions for members of the DPR. In the concept of this Act, the ethics enforcement agency is a special institution established specifically for the purpose of giving consideration and assessment of the proposed sanctions imposition to members of the DPR submitted by the faction. This law delegates the authority of regulating mechanisms. the of imposing sanctions in the House of Representatives regulations on the Code of Conduct.

The Board of Honor Board which aims to enforce the code of ethics of members of the People's Legislative Assembly is where this institution shall be supplemented by various tasks, functions and authorities, where such duties, functions and authorities are expected to always be carried out by this institution

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<sup>5</sup> Shidarta, *Moralitas Profesi Hukum Suatu Tawaran Kerangka Berpikir*, (Bandung: Refika Aditama, 2009), hlm. 4-6,

<sup>6</sup> Muhammad Nuh, *Etika Profesi*, hlm. 17.

appropriately, efficiently, accountably, and fair in order to maintain the prestige and dignity of the House of Representatives both institutionally and individually as members of the DPR.

The task is something that must be done or determined to be done, where the work is the responsibility of the institution or individual who has been charged with the work<sup>12</sup>. While authority according to G. R Terry is the official power and the power of officials to order the other side to act and obey the party who has the authority<sup>13</sup>, Authority according to Robert Bierstedt is institutionalized power (Robert Bierstedt, 1950: 732. See Budiardjo, 1994: 88). Further Soerjono Soekanto, distinguished between power and authority explicitly. Power is said to be something of a person's ability or power to influence others, whereas authority is a power which receives recognition and support from society, or in other words authority is the basis for an institution or person to carry out its duties and responsibilities, so that with the given authority then the task can be done well, in which case MKD in carrying out the duty can give orders to all parties who will be concerned with a case.

Based on Pasal 119 paragraph (2) of Law Number 17 Year 2014 the function of MKD is the Honorary Council of the Council established by the Parliament and is a permanent DPR equipment fittings. The Honorary Council of the Council as referred to in paragraph (1) aims to safeguard and uphold the honor and dignity of the House of Representatives as a representative body of the people

## V. CONCLUSION

Based on the above description can be concluded that the position of the Court of Honor Council based on Law no. 17 Year 2014 explained explicitly in Article 119, which states that the Council of Honor Council is an institution established by the House of Representatives and is a permanent tool of the DPR which has a duty and function to maintain and uphold the honor and dignity of the House of Representatives as a representative body of the people . The Honorary Court of the Council is responsible for maintaining and upholding the honor and dignity of the House of Representatives as a representative body of the people. The Honorary Council of the Council is an institution of great importance in maintaining the dignity and dignity of the Indonesian parliamentarians, constituted as a permanent furnishings of the People's Legislative Assembly.

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