

Judge's Integrity in Judging Cases

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ABSTRACT

The purpose of this study is to analyze the nature of the integrity of judges in adjudicating cases and the factors that influence it. This research is an empirical research type with a philosophical approach. The research was conducted at the Makassar District Court (Class IA Special); Sungguminasa District Court (Class IA); Sengkang District Court (Class IB); and the Sidrap District Court (Class II). The results of the study show that: (1) the nature of the integrity of judges in adjudicating cases is judges who are loyal, consistent, and think logically; (2) The factors that influence judges in adjudicating cases are psychological factors and ethical (moral) factors; (3) the ideal model of judges in adjudicating cases is carried out through the stages of the fact structure, legal structure, and adjudicating structure.

Keywords: Integrity; Judge; Case

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I. Introduction

The current situation of the Indonesian state can be classified as a moral emergency because bad behaviour has become so massive in all walks of life. The corrupt behaviour of state officials has become a daily menu in *infotainment* as well as television news channels and various other media. Among other things, we can see this in the data revealed by *Indonesia Corruption Watch* (ICW), which are as follows:

The criminal sentence of four years in prison for the inactive Banten governor Ratu Atut Chosiyah adds to the long list of corruption convicts who were lightly sentenced by the Corruption Court (Court of Corruption). Based on data from *Indonesia Corruption Watch* (ICW), during the last six months, 195 defendants were given light sentences by judges. This number reached 74.7 per cent of the 242 corruption convicts in 2014. ICW data shows that 43 defendants received moderate sentences (16.4 per cent) and only four defendants (1.5 per cent) received heavy sentences by the Tipikor Court. This includes one convict sentenced to life in prison, namely the former chairman of the Constitutional Court (MK) Akil Mochtar. The data is not much different from the full year in 2013.

In 2013 as many as 232 defendants (78.64 per cent) were sentenced to the light category (0-4 years). Meanwhile, 40 defendants were sentenced in the moderate category (4.1-10 years), and only seven defendants were sentenced to heavy sentences (above 10 years in prison). Still based on ICW data, after being averaged, the criminal verdict for corruptors in the first semester of 2014 was 2 years and 9 months in prison. This figure is slightly better than in previous years, where the average corruption case was 2 years and 8 months in prison in the first semester of 2012, and 2 years and 6 months in prison in 2013. This data is monitored by ICW from 210 corruption cases with 261 defendants in cases that have been tried, both at the first level, appeal, classification, and review (PK). The total of all these cases the state loss that appears is around Rp. 3.863 trillion and Rp. 49 million US dollars, and a total bribe value of Rp. 64.15 billion.

Judges as one of the elements of law enforcement apart from the police, prosecutors and the leadership of the correctional institution have a strategic main role to participate in implementing legal regulations/stipulations in a community organization. The judge, who is likened to a figure who is the representative of God on earth, has a heavy-duty and authority and must be accounted for both horizontally, namely to all humans and vertically to God Almighty.

The task of the judge is to make decisions in every case or conflict he faces, to determine matters such as legal relations, the legal value of behaviour, as well as the legal position of the parties involved in a case, to be able to resolve disputes or conflicts impartially based on the applicable law, the judge must always be independent and free from the influence of any party, especially in making a decision.^[1]

Judges in receiving, examining and adjudicating, as well as for deciding a case are protected and given an independent and free power by the state from any intervention from any party and in any form, as a guarantee

of the impartiality of judges except for law and justice for the sake of the implementation of the rule of law. The Republic of Indonesia. Therefore, in realizing legal certainty and order for the community, judges are obliged to explore, follow, and understand the legal values and sense of justice that live in society. On that basis, the judge in examining, adjudicating, and deciding is required to be based on legal facts at trial, legal norms/rules, legal morals, and legal doctrine as consideration for his decision on a case, for the sake of upholding justice, certainty, and order. law, which is the main purpose of the law itself.^[2]

As described above, one of the hopes to get out of the problems faced by the State is to make the law the commander in chief. And the Judge as one of the law enforcers is expected to be able to provide maximum input and additions, by giving the best in carrying out the tasks that are imposed on his shoulders. Not only in carrying out his main duties as a judge but also in his daily life behaviour. Because this country is poor for example and too many people who have power are only good at talking.

Of course, it is not without meaning if a judge is called "Your Majesty", because the judge is expected to be someone wise. This is very important because it is in his hands that the fate of a person is at stake, not even just stopping the person who has been sentenced to a criminal sentence but also on the fate and good name of his family. Therefore, an ethical judgment is a mandatory thing and must be maintained and cultivated and improved in various ways including by implementing a Technical Guidance in the form of a Code of Ethics and Code of Conduct for Judges (KEPPH) every year for judges in the judicial environment, and moral supervision has been carried out. on the judges internally by the Supervisory Body within the Supreme Court and externally by the Judicial Commission.

The definition of ethics is a collection of principles or values related to morals regarding right and wrong held by a group or society. Behaviour can be interpreted as a response to individual reactions that are manifested in a movement (attitude) and speech by what is considered appropriate by the applicable legal rules. Behavioural ethics are attitudes and behaviours that are based on mental maturity that is aligned with the norms prevailing in society. The implementation of the code of ethics and code of conduct for judges (KEPPH) can lead to public trust or distrust in court decisions. Therefore, judges are required to always behave with noble character.^[3]

In the judge's decision, all aspects of juridical, sociological, and philosophical nature must be considered, so that the justice to be achieved, realized, and accounted for in the judge's decision is justice-oriented to legal justice (*legal justice*), community justice (*social justice*), and moral justice (*moral justice*).^[4] is in the philosophical aspect, including morals.

Criminal law (*penal*) is a public law that can be interpreted as a law that regulates actions that are prohibited by law and result in the application of punishment for anyone who does it and fulfils the elements of actions that are prohibited in the Criminal Code, Law No. -Corruption Act and Human Rights Act.^[5]

The crime of corruption is a crime in the realm of special criminal law, which also requires special handling because it is an *Extra-Ordinary Crime*. In a corruption case who has the right to handle it are judges who already have a certificate of special training for judges on corruption crimes organized by the Supreme Court. These judges come from career judges (judges who have served as judges in general courts, both in district courts and at the appeals level), and *ad hoc* (from elements of society with certain criteria stipulated by law).judges *ad hoc* from the community is expected to provide new nuances and enthusiasm in the judiciary.

The reality today, although not all cases of corruption the defendant must be guilty, with so many corruption cases that have sprung up in this country in the form of a final decision which according to the eyes of the wider community with a decision that is too light, namely: in the form of a decision to release from all lawsuits (*Ontslog van Alle Rechtsvervolging*) is even free (*Vrijspreek*). This has disappointed people's expectations, especially anti-corruption activists.

Various cases of corruption colouring this country, it seems that it never ends. Even when Kartini (*ad hoc Corruption Court judge*), Setyo Budi (deputy chairman of the Bandung District Court) were arrested, the KPK even finally arrested Aqil Mochtar (Chairman of the Constitutional Court) on charges of accepting bribes. It seems that hope is almost gone to make the law the commander-in-chief in this country. For those whose conscience is not yet dead, of course, they are not willing to see how damaged the legal condition of this country is. Of course, most people cannot understand how the chairman of the Constitutional Court, who is one of the holders of judicial power in the Indonesian constitutional structure, can do such a lowly thing. What happened to the morale of the law enforcers, and how important is the role of Integrity for a person who should be noble and have a mandate as God's representative on earth? Because so many laws and regulations have been made, but in practice, it turns out that it is not at all as easy as turning the palm.

Integrity in a judge is one of the codes of ethics and behaviour of judges where the universally accepted reference as a reference is *The Bangalore Principles of Judicial Conduct* (BPJC) which was officially adopted in November 2002. This BPJC is designed as a code of ethics or guidelines for judges' behaviour. in carrying out his function as a judge. The principles in the BPJC have been accepted by judicial institutions in various countries and international organizations related to the integrity of judges and the judicial process, such as the

recognition given by the American Bar Association (ABA) and the International Commission of Jurists. "The Bangalore Principles of Judicial Conduct have increasingly been accepted by the different sectors of the global judiciary and by international agencies interested in the integrity of the judicial process. Even the jurisprudence of the European Court of Human Rights has also discussed the issue of the integrity of these judges in their decisions."^[6]

The realization of the creation of judges with noble personalities, who are not reprehensible, who adhere to the code of ethics and behaviour of judges, is a necessity to produce judges with integrity and dignity to produce fair decisions. Because the authority possessed by the judge demands a high responsibility, the court's decision which is pronounced with *irrah-irrah* "For the sake of justice based on the One Godhead implies that the obligation to uphold truth and justice must be accounted for horizontally to humans, and vertically accounted for. to God Almighty."^[7]

The phenomenon of tarnishing the integrity of judges occurs at almost all levels of the court. Starting from the judges of the District Court, High Court, to the Supreme Court. Cases of judges who violated the Code of Ethics and Code of Conduct for Judges and several judges who were caught in the act of accepting bribes to issue decisions according to the will of the bribe giver. This reflects how bad the integrity of the judge is that even the decision of the representative of God can be exchanged for money. Therefore, the crisis of judges' integrity cannot be taken lightly but has entered a worrisome stage. Without high integrity, a judge will decide cases that are not based on justice, so that people no longer know where they will seek justice, as a shared goal to build an ideal country.

II. Research Methods

Research on the nature of the integrity of judges in adjudicating cases in empirical legal research with a philosophical approach. Empirical legal research departs from the gap between *das Sollen* and *das Sein*, namely the gap between theory and the world of reality.^[8] This aspect of empirical legal research is also referred to as *non-doctrinal research* or *socio-legal research*.

III. Discussion

Everyone has their reasons for choosing the profession of the judge. *The reasons are given in choosing a profession as a judge, namely: a call to conscience, because of his family background who is also a judge, because he studies at the law faculty, the judge is a high profession, becomes a judge because of a call to life, to implement knowledge, relates to moral aspects, and to enforce the law.*^[9]

Judges are not a single entity. Nor are humans who can avoid everything human. As human beings, judges cannot be separated from their origins such as race, ethnicity, religion, social class, education, scientific ideology, gender, the certainty of their economic future, career before they became a judge, and family background. Realizing that judges are also human, this study also looks at the problems of judges from a human perspective. In this study, there are various reasons and motivations for choosing a profession as a judge, namely: the call of conscience; inspired by parents; want to be responsible for science; the profession of the judge is a high profession; soul calling; moral aspects; and called to enforce the law.

Some judges do not complain about their welfare even though the income of the judicial profession is not better than other professions. There are various reasons because they feel that the current salary and benefits are sufficient, or they are not currently married. However, some judges complain that the salaries and allowances of judges need to be increased because they are used up for visiting their separated families, and there are many family responsibilities.

Some judges assert that they choose the profession of the judge because they are called to enforce the law so that in trying cases they always try to give a fair decision. Some judges claim to be judges because they want to be responsible for their knowledge and are inspired by their parents. In the guidelines for the behaviour of judges, the character of a judge is reflected in the symbol of a judge known as the "Panca Dharma Hakim", namely: Kartika, Cakra, Candra, Sari, and Tirta are always implemented in everyday life, especially when carrying out the task of adjudicating cases.

As a judge, he is obliged to carry out the nature of the Panca Dharma Hakim in carrying out his duties and responsibilities as a judge. Therefore, as a judge, try as much as possible and it becomes a necessity to implement these characteristics in everyday life. The characteristics of judges in the Panca Dharma Hakim are behavioural guidelines that must be followed in carrying out the duties of the Judge profession.^[10]

Initially, the drafting of guidelines for the code of ethics for judges was first initiated at the 1966 IKAHI Extraordinary IV Congress in Semarang. Then the Supreme Court (MA) responded to the guidelines by conducting studies and receiving input from judges at various levels and within the judiciary, legal practitioners, legal academics, and other parties in society. Then, on March 30, 2001, based on the results of the 13th IKAHI National Deliberation in Bandung, defining the qualities that must be possessed by a Judge, then these traits are described in the symbol to become Panca Dharma Hakim, namely: (i) Kartika, a star that symbolizes the

Supreme Godhead; (ii) Chakra, the powerful weapon of the god of justice that destroys all evil, injustice, and injustice; (iii) Candra, the moon that illuminates all dark places, the ray of light in the darkness which means wisdom and authority; (iv) Sari, a flower that smells good with fragrance, is of an impeccable manner; and (v) Tirta, water that cleans all the dirt in the world, which means the judge must have an honest character.

The implementation of the Panca Dharma Hakim as a guideline in carrying out the professional duties of judges must be seen in the daily life of judges, not only at the rhetorical level. In carrying out the task of adjudicating, the judge deals directly with the litigants.

Attitudes showed by judges to litigation parties by prioritizing the principle of presumption of innocence, being objective. Another attitude shown is to maintain independence by not meeting people who are litigating inside or outside the court, except in the courtroom. Placing everyone equal before the law is a must, as is being impartial and maintaining independence. In carrying out the duties and functions of adjudicating, judges adhere to the Code of Ethics and Code of Conduct for Judges (KEPPH) and procedural law.^[11]

Judges in carrying out their official duties must behave and act according to the lines specified in the applicable procedural law, so the line of command is procedural law. Judges are not allowed to behave in a way that shows partiality or sympathy or antipathy towards the litigants so they must be polite, firm and wise in leading the trial, both in speech and inactions, this is done to maintain authority and enjoyment of the trial.

Judges must ensure that their attitudes, behaviour and actions, both inside and outside the court, always maintain and increase public trust, other law enforcers and litigants, so that the judge's impartiality is reflected. In carrying out his official duties as a judge, it is not uncommon for a judge to be required to be loyal to his superiors.

As a subordinate, he responded to this statement by continuing to prioritize professionalism while still building communication to convey his views as the owner of voting rights as judges.^[12]

Judges in carrying out their official duties must still obey or be loyal to their superiors based on the rules outlined by their superiors honestly and sincerely. Judges still have space and time to try to give constructive suggestions to superiors. So as a judge, he must have the ability to issue/express opinions to superiors without leaving official norms.

As part of the community, judges still have to get along with the community. As part of the community, judges must not isolate themselves from the community but must maintain the good name and dignity of judges. Associating is still necessary but to a certain extent to maintain the authority of the judge, associating only as necessary to avoid things that are not important, to maintain the credibility of the judge. Mingling with the community is still needed to build brotherhood while maintaining independence. The judge realized that interacting with the community is a necessity to channel hobbies, habits, pleasures, but only in a personal way is a normal meeting, a friend approach, and most importantly, stay in a pattern of limiting yourself in socializing.^[13]

As a member of the community, you may not isolate yourself from the community. As part of social life, judges must have a sense of cooperation, so blending in with the community is a necessity, but judges must maintain the good name and dignity of judges. What a judge may not do is meet parties who have a direct or indirect interest in a case that is being tried by the judge concerned which reasonably should be considered to have the purpose or intent to influence the judge in carrying out his judicial duties. Judges legally cannot meet with the parties to avoid the judge's alignment with the litigants or to avoid what is commonly called gratification against judges. Pancasila is the fifth precept which states social justice for all Indonesian people. The judge aims to sharpen the law, not too dull Indonesian law.

The Code of Ethics and Code of Conduct for Judges (KEPPH) is a guide to moral virtue for every judge, both inside and outside the service. One of the items of the Code of Ethics and Code of Conduct for Judges is High Integrity. But in reality, the phenomenon of tarnishing the integrity of judges still occurs at almost all court levels in the form of cases of disciplinary violations and some even lead to imprisonment.

The phenomenon of tarnishing the integrity of judges that occurs is caused by the lifestyle of judges. The strong influence of the community and external intervention is also one of the causes. Feeling that there are welfare problems coupled with a lack of gratitude and prioritizing lust are also often the cause, including excessive expectations for positions. Judges must simplify their lifestyle, adopt an attitude of humility, and make work a mandate. As a judge, he must always maintain his faith and try his best not to be influenced by actions that tarnish the judicial institution, including the judge himself.^[14]

Code of Ethics and Code of Conduct for Judges (KEPPH) as a reference for Judges serving in the Court which refers to *The Bangalore Principles*. The requirement for judges to have integrity is the main requirement to realize an independent and impartial judicial power. Integrity is placed as the main condition because integrity determines the running of a free and independent judicial power. So that in future cases that injure the integrity of judges are not repeated, it is necessary to strengthen integrity. *First*, instilling strong integrity through the pattern of coaching prospective judges. Integrity must be realized through an inner attitude that reflects the integrity and balance of the personality of each Judge as a person and as a state official in

carrying out his professional duties, accompanied by inner toughness to ward off and reject all seductions, temptations of position, wealth, popularity, or other temptations. *Second*, seeing the position of Judges as *during good behaviour* (as long as they behave well) up to the age limit. Certain. If any Judge behaves in the slightest deviant behaviour, he will be dismissed immediately without waiting for his old age or retirement. Third, optimizing the role of the community in supervising court institutions. how to actively monitor and report problematic Judges. The various efforts above are an effort to strengthen the integrity of Judges to maintain the honour, nobility of dignity and avoid abuse of their authority.

The duties and functions of judges are to receive, examine, hear and decide cases submitted to them. When carrying out these duties and functions, judges are not infrequently trapped in conflicts of interest in carrying out their duties of receiving, examining, adjudicating and resolving cases.

In these situations and conditions, the attitude taken by the judges is to maintain and prioritize professionalism, maintain the independence of judges by upholding the law and referring to SOPs. The attitude that is most often carried out is that the judges are replaced, resigned and not resigned.^[15]

The Code of Ethics and Code of Conduct for Judges (KEPPH) explains that judges may not try a case if it has a conflict of interest, either because of personal and family relationships, or other relationships that are reasonable (*reasonable*) which should be suspected of containing a conflict of interest.

Judges are prohibited from adjudicating a case if they have a family relationship with the chairman of the panel, other member judges, prosecutors, advocates, and clerks who handle the case. Judges are also prohibited from adjudicating a case if the judge has a close friendly relationship with the litigants, prosecutors, advocates, who are handling the case.

Judges who have conflicts of interest are obliged to resign from examining and adjudicating the case in question. The decision to resign must be made as early as possible to reduce the negative impact that may arise on the judiciary or the suspicion that the judiciary is not being administered honestly and impartially. If there is a doubt for a judge regarding the obligation to resign, examine and try a case, he must ask for the chairman's consideration.

The judge in examining, deciding, and adjudicating the case submitted to him must be free from all outside influences that can change his belief about his sense of justice.

Judges must maintain their independence and freedom. There are only two keys to maintaining this independence and freedom, namely, first: impartiality, and second: breaking relations with political actors. Another thing that can be done is to be independent, both personal independence of fellow judges, moreover being independent of all parties.

Judges in carrying out their duties of receiving, examining, adjudicating, and deciding cases before them must be independent. Independent means being able to act alone without the help of other parties, free from interference from anyone and free from any influence. An independent attitude encourages the formation of tough judges, holding fast to principles and beliefs in the truth by moral demands and applicable legal provisions.

Judges must carry out judicial functions independently and free from influence, pressure, threats or inducements, either directly or indirectly from any party. Judges must be free from improper relations with executive and legislative institutions and other groups that have the potential to threaten the independence of judges and the judiciary. Judges are required to behave independently to strengthen public trust in the Judiciary.

Being a judge requires the intellectual ability (*hard competency*) or judicial technical competence in carrying out the duties and functions of receiving, examining, adjudicating and deciding cases submitted to him.

Improving intellectual ability (hard competency) or judicial technical competence is a necessity. The desire to continue education to a higher level is an aspiration, it must always be there, no longer a desire but a need. Improving the quality of education is a must for a judge, even to the highest level because education is a lifetime, seek knowledge from the swing to the grave.^[16]

Being a judge requires the intellectual ability (*hard competency*) or judicial technical competence in carrying out the duties and functions of receiving, examining, adjudicating and deciding cases submitted to him. Intellectual ability (*hard competency*) or judicial technical competence that must be possessed by a judge requires the judge to be professional in carrying out his duties.

Professional means a moral attitude based on a determination to carry out the chosen job with sincerity, which is supported by expertise based on knowledge, skills and broad insight. A professional attitude will encourage the formation of a person who always maintains and maintains the quality of work, and strives to improve knowledge and performance, so that the highest quality of work is achieved, effectively and efficiently.

The profession as a judge is a profession that has a very important role. A judge will determine and make decisions on various cases held in court. *To equip oneself to have the ability and expertise in carrying out the profession of a judge, keep learning, read a lot of books/articles, both legal science and non-law sciences, including religious books/articles, discuss, stay updated, especially regarding with statutory regulations.*^[17]

Professionalism comes from the word profession, in general, it is an adjective that means the character of a person's work in pursuing his profession or also the ability to act professionally. Professionalism also concerns the profession or professionalism related to the quality of the attitude of the incumbent towards his profession and the degree of knowledge and expertise they have to be able to carry out their duties. There is a very significant difference between a profession and a job. To distinguish between a profession and a job can be expressed in a simple expression that a profession is definitely a job but a job is not necessarily a profession. Professions have mechanisms and rules that must be met as a condition, while work does not have such provisions or in other words, the profession requires special (competent) knowledge and skills, while work does not require special skills.

There is a correlation between profession and professionalism, someone who is professional is someone who carries out his professional duties correctly and according to the lines of professionalism that apply to his profession. Among the characteristics of a professional person is being responsible for his work, thinking systematically and mastering material related to his profession. Professionalism is a term for the quality of the attitude of members of a profession towards their profession and the degree of knowledge and expertise they have to be able to carry out their duties.

The position of a judge is a profession, not just a job, therefore judges are required to have expertise in the field of law and other disciplines and be able to think systematically. With extensive knowledge, a judge is expected to be able to present a quality decision. To become a professional judge, of course, every judge must continue to study and learn. In line with this, the Supreme Court of the Republic of Indonesia has provided training, certified judges, created a continuing judge education program, provided rewards for outstanding judges and many others have been carried out by the Supreme Court of the Republic of Indonesia. Besides that, it is also necessary to facilitate study permits for judges who want to continue their education to the second strata (S2) and third strata (S3).

Professional judges are judges who have broad insight, understand their duties, master formal law and material law and understand the laws that develop and live in society. In short, a professional judge is a knowledgeable judge.

Based on the results of research on the integrity of judges in adjudicating cases, the researchers can conclude that: Judges have the task of receiving, examining, adjudicating, and deciding cases before them. In carrying out the duties of receiving, examining and adjudicating, as well as for deciding cases before him, the judge is bound by the Code of Ethics and the Code of Conduct for Judges (KEPPH). One of the important principles in the Code of Ethics and Code of Conduct for Judges (KEPPH) is the principle of Integrity.

Integrity is a form of loyalty, namely one's determination to hold on to universal moral principles and values. Integrity is not only about words, but also reflects actions that are in line with universal and rational moral principles and values, where the principles or values are manifested in the form of actions, where loyalty is shown as a person's determination to act by the principles or values he holds. Integrity is not just acting in line with a principle or value, but an objective principle or value that can be justified morally. This justification must also illustrate the conclusions reached through the principles of logic, not mere emotion.

Judge's integrity is the judge's loyalty to become a quality personality (*quality of excellence*) with characteristics or conditions that show a complete unity so that they have potential and abilities that radiate authority, honesty.

IV. Conclusion

The Essence of the integrity of judges in adjudicating cases is that judges have loyalty, namely having the determination to uphold universal moral principles or values; consistent to act by the principles or values held (only words and deeds); and that principle or value is objectively justified morally (justification) through the principle of logic, not mere emotion.

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