
THE RELATIONSHIP OF THE JUDICIAL COMMISSION WITH THE IDEAL SUPREME COURT

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Abstract. Relationship is a matter of the occurrence of cause and effect. The ideal relationship is something that is aspired or coveted or desired by every individual, group and body or organization who wants to establish a relationship based on the interests and desires of both parties, Same is the case with the Judicial Commission and the Supreme Court. In the dynamics of an organization that differences are a means to give birth to solutions in creating togetherness and establishing ideal relationships in building a common concept and rules. The research methodology used in this paper uses the Normative Empirical research method, which aims to answer what factors influence the relationship between the Judicial Commission and the Supreme Court, as well as how to improve the ideal relationship between the Judicial Commission and the Supreme Court.

Keywords: relationship, ideal, judicial commission (KY), supreme court (MA)

INTRODUCTION

An ideal relationship is something that is aspired or desired or desired by every individual ([Hoesein, 2016](#)); ([Deng, 2018](#)), group and body or organization who wants to establish a relationship based on interests and desires both sides. If this understanding is related to the ideal relationship between the Judicial

Commission (hereinafter referred to as KY) and the Supreme Court (hereinafter referred to as MA), it means that the relationship between KY and MA must be in accordance with the wishes aspired by both parties and also desired by the State and the DPR as a representation from society. That the wishes of the Government and the community have basically been stated in the laws and regulations that apply to both parties.

That the relationship between KY and MA is run by legal professionals. We all realize that the legal profession is an honorable and noble profession. Individuals who carry out an honorable and noble profession are addressed to Judges. In carrying out trials, judges are always called as Your Majesty. The demand for a noble title is an honorable calling as a legal professional, thus it is necessary to make this profession a choice and at the same time a calling in life to serve the community in the field of law ([Hirschi & Herrmann, 2013](#)); ([Beveridge, Moody, Murray, Darimont, & Pauly, 2020](#)).

The object of KY's supervision is to carry out external supervision of judges in all courts ([Nurlaelawati & Rahim, 2012](#)); ([Hasmi, 2017](#)). While the object of supervision of the first Supreme Court is

the internal supervision of the Judicial Technical field of judges in all courts with the aim of improving the quality of judges' decisions ([Pekkanen & Niemi, 2013](#)), the second is supervision in the administrative field which aims to improve legal services and finally in the field of judicial functions in accordance with the Code of Ethics and Code of Conduct for Judges ([Sillen, 2019](#)); ([Rifai, 2010](#)); ([Handelman & Greene, 2013](#)). If we take the same slice of the two functions of the Institution, there is a similarity that the objects are judges at all levels of the judiciary and both maintain and enforce the code of ethics and code of conduct for judges.

Judges have a very large task and responsibility authority in carrying out judicial power, so that court decisions are always pronounced with the irah-irah "*For Justice Based on the One Godhead*" this shows the obligation to uphold the law, truth and justice must be horizontally accountable to humans, and vertically to God Almighty.

Supervision is needed to realize a fair legal decision by the judges. There needs to be an ideal relationship in internal supervision by the Supreme Court and external supervision by the Judicial Commission. That success in maintaining and enforcing the Code of Ethics and Code of Conduct for Judges properly and correctly can increase public trust. Therefore, judges are required to behave well and be virtuous .

KY's service has been running for decades. As a relatively new and independent institution, various challenges, obstacles and different perceptions in carrying out tasks may

occur. In the dynamics of an organization that differences are a means to give birth to solutions in creating togetherness and establishing ideal relationships in building a common concept and rules. As a manifestation of the joint concept between KY and MA, several joint regulations have been made and updated including: Joint Regulation Number: 01/PB/MA/IX2012, Number: 01/PB/P.KY/09/2012 concerning Selection of Appointing Judges, Regulations Joint Number: 02/PB/MA/IX2012, Number: 02/PB/P.KY/09/2012 concerning Guidelines for Enforcement of the Code of Ethics and Code of Conduct for Judges, Joint Regulation Number 03/PB/MA/IX2012, 03/PB/P KY/09/2012 concerning Procedures for Joint Examination and Joint Regulation Number 04/PB/MA/IX2012, 04/PB/P.KY/09/2012 concerning Procedures for Establishing, Working Procedures and Decision Making Procedures for the Honorary Council of Judges.

Mutual regulation is software as a means to create an ideal, harmonious and respectful cooperative relationship. Sectoral ego attitudes need to be avoided, especially on matters that have the potential to cause polemics that can hinder and harm the common goal of KY and MA in maintaining and enforcing the code of ethics and behavior of judges.

Judges are ordinary people who do not escape from mistakes and mistakes. That the judge's temptation is very big in deciding a case. A proper and correct monitoring system by Internal Supervisors and External Supervisors is very much needed so that Judges are more careful and

not easy to play with a case. Therefore judges must set an example and role model and show more obedience than others, especially in terms of law enforcement and justice ([Ferreira & Mueller, 2014](#)). The Supreme Court as an actor of judicial power requires ideal cooperation with KY, especially in the field of external supervision of the Code of Ethics and Code of Conduct for judges at all levels of the judiciary.

Whereas public complaints are a means of control for KY and MA. The control tool must be used objectively and coordinatively by the Judicial Commission and the Supreme Court. The professionalism and independence of judges must be respected. Whereas in order to avoid friction and polemics in the field, an ideal relationship is needed between the Judicial Commission and the Supreme Court to carry out preventive efforts in the corridor of fostering and supervising violations of the Code of Ethics and Code of Conduct for Judges.

External supervision by the Judicial Commission in maintaining and enforcing the code of ethics and code of conduct for judges must be carried out properly and correctly so that this does not cause conflict and rejection from the judge being examined. The opinion about the tendency of the Supreme Court to protect fellow Judge Corps on the grounds that KY has interfered with the judge's authority in the technical field of Judicial must be straightened out. That this difference of opinion must be properly neutralized so that it does not become an obstacle in carrying out tasks as mandated by law. The above issues should not be allowed to

develop in order to prevent conflicts of interest that can harm both parties. To avoid this potential, joint efforts are needed to improve the ideal relationship between MA and KY. It takes togetherness, awareness and greatness of soul to understand each other's position and authority. Constructive coordination and communication need to be built to establish an ideal relationship in finding solutions related to judicial technicalities so that they do not hinder the task of maintaining and upholding the honor, dignity, and behavior of judges.

METHODS

The research methodology used in this paper uses the Normative Empirical research method, namely researching through juridical normative provisions in the form of applicable laws and regulations with a literature study approach in the form of secondary data and analyzing it using empirical data based on facts from several events that are considered to have problems in the course of the relationship between the Judicial Commission and the Supreme Court.

RESULTS AND DISCUSSION

A. The Duties and Authorities of KY in Carrying Out External Supervision according to the Provisions of Applicable Laws.

In the management system of every organization, supervision is always needed. Supervision basically has a good purpose, namely to prevent and avoid as early as possible the occurrence of various potential errors,

mistakes, or abuse of authority. Supervisory agencies are usually given the authority to take action or straighten things out when things go wrong. A good monitoring system becomes a pressure valve for the possibility of various forms of irregularities in an organization and personnel. Supervision can be carried out with preventive or repressive actions.

The position of KY as a supervisory agency has been regulated in Article 24 B of the 1945 Constitution, paragraph (1) That KY is independent in nature and has the authority to propose the appointment of Supreme Court justices and has other powers in order to maintain and uphold the honor, dignity and behavior of judges .

Then in Article 13 of Law No.18 of 2011 concerning Amendments to Law No.22 of 2004 concerning KY, the authority of KY includes: Proposing the appointment of Supreme Court Justices and ad hoc in MA to DPR for approval; Maintain and uphold the honor, dignity, and behavior of judges; Establish a Code of Ethics and/or Code of Conduct for Judges together with the Supreme Court and maintain and enforce the implementation of the Code of Ethics and/or Code of Conduct for Judges.

Meanwhile, the KY's duties are: To monitor and supervise the behavior of judges; Receive reports from the public regarding violations of the Code of Ethics and/or Code of Conduct for Judges; Conducting verification, clarification, and investigation of reports of alleged violations of the

Code of Ethics and/or Code of Conduct of Judges in a closed manner; Decide whether or not reports of alleged violations of the Code of Ethics and/or Code of Conduct of Judges are correct; Take legal steps and/or other steps against individuals, groups of people, or legal entities that degrade the honor and dignity of the judge.

In connection with the tasks that have been regulated in the legislation mentioned above, any power, including judicial power, has the potential to be misused so that it deviates from the given normative purpose. That this potential can be prevented and avoided if the power holder has high moral integrity so that he is able to control himself not to do this. The system of supervision, prevention, guidance, and prosecution of judges must be able to work properly and sustainably.

KY in carrying out external supervision is only given the authority regarding ethical issues and judges' behavior and does not enter the area of a technical judicial nature. Supervision must not be carried out in such a way as to violate the constitutionally guaranteed independence of judges. The judge's decision must be considered correct, until the decision is annulled by a higher court decision (*Res Judicata pro veritate habetur*). The Code of Ethics and Code of Conduct for Judges that have been jointly determined by the Chairperson of the Supreme Court and the Chairperson of the Judicial Commission are the parameters for evaluating the conduct of judges' ethics and behavior. KY

cannot act alone as an ethical court because the ethical trial of judges is carried out by the Honorary Council of Judges which was formed jointly between MA and KY. The Honorary Council of Judges (MKH) performs its function as an "ethical court" against judges suspected of committing ethical violations. MKH has the authority to assess and decide based on evidence of alleged ethical violations by judges as being examined.

B. Supervision Problems Between KY and MA.

There have been several problems in the relationship between KY and the Supreme Court, so that there is an assumption that KY has violated the provisions so that it does not receive support and approval from the Supreme Court in carrying out its duties to maintain and enforce the Code of Ethics and Code of Conduct for Judges. The following describes several events that can serve as examples and lessons for KY and MA:

1. Events and Problems in the relationship between KY and MA. KY in carrying out its duties receives many complaints from the public, these complaints are a means to monitor the behavior of judges who violate the code of ethics and code of conduct of judges. KY in following up on the complaint requires evidence, verification and coordination with the Court and related parties including the Supreme Court, especially through the Supreme Court Supervisory
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Body as the executor of control internal. Some examples of incidents that have become obstacles to the relationship between KY and the MA include:

- a. case of Nurmah-mudi Ismail's victory as mayor of Depok who had received a warning from KY by sending a recommendation to the MA to fire the chairman of the panel of judges who was then chairman of the Java High Court. west along with two other judges as members of the assembly. In fact , the Supreme Court did not immediately follow up on the KY's recommendation because the Supreme Court considered the decision to be within the realm of the Judicial Technical.
- b. The incident of the former head of the DKI Jakarta High Court on behalf of Harifin in the Arthalo land dispute case. KY has proposed the idea of re-selection of Supreme Court justices. KY together with the Minister of Law and Human Rights Hamid Awaluddin tried to meet President Susilo Bambang Yudhoyono to discuss the re-selection. The judges, who felt that their reputation had been harmed, tried to report the chairman of the Judicial Commission, then Busyro Muqoddas , to the police on charges of defamation. The dispute escalated when 40 Supreme Court justices in

March 2006 filed a petition for a judicial review of Law no. 22 of 2004 concerning KY to the Constitutional Court (MK).

- c. In 2010 the Judicial Commission attempted to examine 7 (seven) Supreme Court justices who were deemed to have violated the code of ethics and code of conduct of judges including Paulus Effendy Lotulung, Djoko Sarwoko, Ahmad Sukarja, I Made Tara, Mansur Kartayasa, Judge Nyak Pha, and Imam Soebechi.
 - d. In February 2016 KY and MA had a difference of opinion in the case of Sarpin Rizaldi as the sole judge in the case of Commissioner General of Police Budi Gunawan at the South Jakarta District Court where Judge Sarpin was judged to have violated the code of ethics and the Code of Conduct of Judges because he was considered trying to expand the object of pre-trial. By making the determination of the suspect an object of pre-trial, KY considers Judge Sarpin to have jumped the fence in assessing and making decisions . As a result of the decision , Herry Swantoro, Ibnu Prasetyo, and Nugroho Setiadji were given a sentence of 6 (six) months of not being allowed to try cases.
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C. Influencing Factors

That in order to build and maintain an ideal cooperative relationship between the Judicial Commission and the Supreme Court in carrying out their supervisory duties on the Code of Ethics and the Code of Conduct of Judges, it is certain that there will be obstacles and it is certain that there will also be opportunities to overcome them. Awareness to evaluate the weaknesses of each -Each institution is very necessary in order to be able to develop strength with enthusiasm to solve all problems. Related to this, there are several factors that influence the ideal cooperative relationship between KY and MA. These factors are sourced from within (Internal Factors) and sourced from outside (External Factors). The discussion of these two factors is described as follows:

1. Internal

Factors influencing the KY and MA Institutions include human resources factors (HR). That personnel who are placed as executor of duties in the field of supervision must be equipped with qualified human resources. Implementing tasks must master their duties well and professionally, that there will be many potential risks if supervisory actors are placed or carried out by people who are still unfamiliar with knowledge and have no experience and experience academic limitations so that this can be a weakness that can harm the organization itself. polemic in carrying out tasks in the field. The

capabilities and knowledge capacity possessed must be followed by personal integrity that meets qualification standards as good and honest personnel so that they are not easily tempted and are not easily influenced or collided with tactics of playing against each other by other parties who take advantage of interests.

Another factor that influences internally is the problem of completeness of facilities and infrastructure for KY and MA. That facilities and infrastructure must be able to fulfill and support tasks in accordance with current technological developments. If there is a weakness if the state has not been able to meet the shortage of facilities and infrastructure, it should not be a reason for not being able to carry out the duties and responsibilities in carrying out supervision. To overcome these weaknesses need strength and initiative as well as creativity not to give up on the situation. Good initiatives will be an important force to find solutions to limited facilities and infrastructure.

Evaluation and improvement of the existing system must be able to be updated in the concept of improving performance and overcoming the shortcomings and weaknesses of the rules by making fixed procedures (Protap) or Standard Operating Procedures (SOPs) that are made internally so that flexibility in controlling and

improving work results becomes a strength. for KY and MA institutions.

That it must be avoided that there are indications of Subjective Assessment and Arrogance from the Supreme Court that the Judicial Commission has arrogantly carried out its duties and has entered or intervened in the technical judicial area. KY must ensure that judges do not feel that their independence is disturbed so that there is a tendency to ignore calls, reprimands and even go against the decisions made by KY. The Supreme Court is also not allowed to facilitate or allow Judges who are being investigated to submit complaints to the police with accusations of defamation, as in several examples of cases that have occurred.

Building a good coordination and communication is an influential factor because its basis lies in the ability and goodwill of the personnel who accept the responsibility as task bearers. Differences of opinion on an object of supervision are interpreted as wealth to act more objectively and professionally. If there is an argument against the opinion of KY that a deviant and unfair decision by a judge is a violation of the code of ethics and code of conduct of judges because it is made intentionally or because there are certain strings attached. In this regard, the Supreme Court also

dares to introspect and evaluate by prioritizing good coordination and communication.

2. External

Factors Factors that externally affect the Judicial Commission and the Supreme Court are sourced from several factors, for example for the Supreme Court itself that the influence of external supervision from the Judicial Commission has made the Supreme Court continue to improve itself, including the Supreme Court itself has made a long-term program through printing. blue Judicial Update 2010-2035. The Supreme Court carried out reforms to accelerate the settlement of cases, open access to court information to address corrupt courts.

In relation to improving the integrity of judges and other judicial apparatus, the Supreme Court has developed Information Technology such as the availability of a Case Search Information System Application (SIPP) Website, E-Court Application, SIWAS Application, and *One Day Publish*. The Supreme Court believes that a strong Information Technology (IT) will increase the "Risk of being found out" against violations of the Code of Ethics and Code of Conduct for Judges.

Improving and procuring modern Information Technology by the Supreme Court can have an impact on KY itself. There is a perception from the Supreme Court

that the modernization of equipment and information disclosure system from the Supreme Court will make it easier for the supervisory system and receipt of complaints so that external supervision by the Judicial Commission is considered stale because the Supreme Court's supervisory body has already carried out external actions and guidance to judges. The strengthening of internal supervision by the Supreme Court, such as the occurrence of this preemptive action, seems to undermine the role of KY. So there is an assumption that the role of KY in carrying out external supervision is no longer needed.

The power of coordination and communication of the Supreme Court in the *Criminal Justice System* (Starting from Investigators, Prosecutors, Defenders and Judges) if misused by the Supreme Court, it will become an obstacle for the Judicial Commission if the Supreme Court takes advantage of this opportunity for negative purposes considering that the Judicial Commission is not included in the *Criminal Justice System* ([Kennedy, 2012](#)). The Supreme Court as an old, stronger and more modern organization can take advantage of political power through the government and the Legislature if the Supreme Court abuses that power. That the Supreme Court can abuse and threaten the law

enforcement process that makes the Judicial Commission weak if the government and the DPR have taken sides and discriminated against budget issues and weakened regulations by giving privileges to the Supreme Court so that the independence of judges can be utilized by individuals or groups from the government and the DPR who have interest.

D. Efforts to Improve the Ideal Relationship between KY and the Supreme Court

1. The concept of Good, Harmonious and Constructive

Supervision Basically, the supervisory function carried out by the Supreme Court and the supervisory function carried out by the Judicial Commission both have a very noble goal, namely how to maintain the dignity and authority of judges in the trial was called as His Majesty. The summons aims to carry out the duties of examining, adjudicating and deciding cases in a professional manner in accordance with their duties and authorities. For this reason, the Supreme Court and the Judicial Commission need to build and maintain an ideal relationship by implementing the concept of good supervision for both parties in a constructive harmonization ([Davidson, Van Dyne, & Lin, 2017](#)); ([Minkov, Schneider, Lehmann, & Finkbeiner, 2015](#)).

2. Establishing the Principles of Equality, Objectivity and Accountability

Whereas in the supervision and examination of alleged violations of the Code of Ethics and the Code of Conduct of Judges, mechanisms for monitoring the behavior of judges between the Judicial Commission and the Supreme Court have been regulated. The mechanism and method of submitting recommendations for disciplinary punishment by the Judicial Commission and the determination of disciplinary penalties by the Supreme Court are carried out by building the principles of Equality, Objectivity and Accountability. The mechanism of formation and examination by the Honorary Council of Judges must guarantee the rights and legal certainty of the parties who are the object of supervision or examination. That there is a need for minimum standards for the implementation of supervision and inspection activities in order to accommodate the principles of objectivity and accountability of supervisory activities. An understanding to implement these principles can guarantee the implementation of an ideal relationship between the Judicial Commission and the Supreme Court.

3. Maintaining, Enforcing and Enhancing Judges' Capacity

Whereas the Judicial Commission in carrying out

strategic activities must be oriented towards maintaining and respecting the applicable provisions and preventing sharp differences in the assessment of the results of supervision, especially on the results of judges' decisions that are deviant and unfair. Differences in the Judicial Commission's assessment that resulted in the imposition of sanctions on judges due to differences in interpretation between the internal supervisor of the Supreme Court and the external supervisor of the Judicial Commission as far as possible were coordinated and an objective solution was sought. That the concept of supervision should be carried out not to find fault and not to seek cheap popularity which can harm the Judge as the examinee. The principle of supervision is to ensure that the performance of judges is in accordance with the code of ethics and behavioral guidelines for judges that are oriented towards upholding the honor, dignity and behavior of judges. KY should not only focus on taking action against violations of the Code of Ethics for the Code of Conduct for Judges (KEPPH) but should be oriented towards preventing, fostering and increasing the capacity of Judges to minimize KEPPH violations by not neglecting the welfare of judges.

CONCLUSIONS

There are two factors that influence relationship between KY and MA, namely internal factors and external factors. Whereas in Internal Factors there are several weaknesses and these weaknesses can actually be used as strengths if they are used properly. While in External Factors there are several obstacles that can result in losses and vice versa can be used as opportunities if managed properly and intelligently.

The ideal effort that can be made in the relationship between KY and the Supreme Court can run well if both build a working relationship in the field of supervision with the principles of equality, objectivity, responsibility by prioritizing mutual respect and understanding each other's duties and responsibilities without showing sectoral ego. KY and the Supreme Court can constructively and harmoniously build relationships based on their respective duties and authorities and always maintain an ideal relationship and avoid unnecessary noise. KY in carrying out external supervision must be oriented to strengthening the duties and functions of the Supreme Court in supervising the performance of judges. Carry out coordination and communication in a positive manner and avoid finding fault or seeking cheap popularity and ensure that the performance of judges is in accordance with the code of ethics and code of conduct of judges.

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