

OVERSIGHT OF THE JUDICIAL AGENCY BY THE JUDICIAL COMMISSION

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ABSTRACT

The 1945 Constitution of the Republic of Indonesia regulates the existence of the Judicial Commission, the Judicial Commission has the authority regulated in the 1945 Constitution Article 24B paragraph (1) which states that the Judicial Commission has the authority to propose the appointment of supreme justices and has other powers in order to protect and upholding the honor, dignity and behavior of judges. The research uses normative legal research by using a kind of normative juridical approach. Based on the results of this study it is understood that the legal arrangements regarding the authority of the judicial commission in the perspective of enforcing the code of ethics in the judiciary have not fully provided enforcement of violations of the code of ethics and guidelines for judges' behavior to the Judicial Commission. Because the decision issued by the Judicial Commission itself is still a recommendation, which means that it must be discussed jointly by the Supreme Court in determining and imposing sanctions on judges who are proven to have violated the code of ethics and code of conduct of judges.

Keywords: Supervision, Judges, Judiciary, and Judicial Commission

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INTRODUCTION

Pancasila as the philosophy of life of the nation which is also the source of all legal sources has high-dimensional values and is in accordance with the values that live in society, because Pancasila is also a national character that can distinguish Indonesian people from other nations so that Pancasila also becomes a reference against various rules which are then followed by the constitution and various other organic regulations. The 5th precept "Social justice for all Indonesians", if interpreted, can be a fundamental foundation for the existence of rights and obligations between regional heads who provide LKPJ to the DPRD to achieve justice for the people at the regional level in

upholding transparency and accountability towards the implementation of regional government.¹

The 1945 Constitution of the Republic of Indonesia Article 1 paragraph (3) states that the State of Indonesia is a constitutional state, which guarantees every citizen to receive equal treatment before the law to obtain justice in accordance with the applicable laws in the Indonesian state through judicial powers. with intermediaries in the judiciary. Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia affirms that judicial power is an independent power to administer the judiciary in order to uphold law and justice. The spirit of Article 24 paragraph (1) of the 1945 Constitution was later revealed in Law Number 48 of 2009 concerning Judicial Power. The Supreme Court is the highest state court of all the scope of the judiciary, which in carrying out its duties is free from intervention as mandated by Article 24A of the 1945 Constitution.²

¹ Cynthia Hadita, Regional Autonomy Political Politics Of Regional Liability Reports To Regional Representatives In The Implementation Of Local Government, *Nomoi Law Review*, Volume 1, Issue 1, May 2020, p. 91.

² Adi Sulistiyono dan Isharyanto, *Sistem Peradilan di Indonesia dalam Teori dan Praktek*, (Depok: Prenada Media Group, 2018), p. 1.

A judicial body that is free and impartial to the interests of a citizen, which is expected to have a very fundamental role in enforcing law in a country based on law. The fact is that every country has its own way and system of enforcing the law within the scope of the judiciary with the aim that the court has the independence and freedom of judges in deciding a case without any intervention from either party. Indonesia itself has a rule of law principle that requires independence from the freedom of judges.³

The third amendment of the 1945 Constitution in Chapter IX of the Judicial Authority set up a new agency have here a connection with the implementation of the judicial authority (*judicative power*) that the Judicial Commission mandated in Article 24B paragraph (1) of the Constitution of the Year 1945, namely: "the judicial commission is independent who has the authority to propose the appointment of supreme justices and have other powers in the framework of maintaining and upholding the honor, dignity and behavior of judges."⁴

The regulation of the authority of the Judicial

³ Patrialis Akbar, *Lembaga-lembaga Negara Menurut UUD NRI 1945*, (Jakarta: Sinar Grafika, 2015), p. 201.

⁴ Jimmly Asshiddiqie, *Perkembangan dan Konsolidasi Lembaga Negara Pasca Reformasi*, (Jakarta: Konpress, 2006), p. 65.

Commission in the 1945 Constitution of the Republic of Indonesia is further derived in Article 13 of Law Number 18 Year 2011 concerning Amendments to Law Number 22 Year 2004 concerning the Judicial Commission. The constitutional authority of the Judicial Commission is specifically regulated in Article 24B paragraph (1) of the 1945 Constitution after the third amendment. Article 24B paragraph (1) of the 1945 Constitution concurrently includes the functions, duties and authorities of the Judicial Commission in the form of a general formula. Based on the main points of the formula, Law Number 18 Year 2011 outlines the strategic function of the Judicial Commission through Article 13 which states that the Judicial Commission has the authority: (a) to propose the appointment of supreme judges and *ad hoc* judges in the Supreme Court to the DPR for joint approval; (b) uphold the honor and dignity and guard the behavior of judges; (c) establish a Code of Ethics and / or Code of Conduct for Judges (KEPPH) together with the Supreme Court; and (d) maintain and enforce the implementation of the Code of Ethics and / or Code of Conduct of Judges (KEPPH).⁵

⁵ Titik Triwulan Tutik, *Eksistensi, Kedudukan dan Wewenang Komisi Yudisial*, (Jakarta: Prestasi Pustaka, 2010), p. 152.

The Judicial Commission in carrying out the task, through Article 22D paragraph (1) of Law Number 18 Year 2011 concerning Judicial Commission, given kewenangan late to the Judicial Commission to take action against a judge found to have violated the Code of Ethics and Code of Conduct of Judges to make a proposal or recommendation for imposition of sanctions against the judge concerned to the Supreme Court. The Supreme Court has 2 (two) options in following up on the proposal or recommendation of the Judicial Commission, namely accepting recommendations in accordance with Article 22D paragraph (3) of Law Number 18 Year 2011 concerning the Judicial Commission, that recommendations received directly within a maximum period of 60 (sixty) days from the date the proposal is received.

The joint examination mechanism between the Judicial Commission and the Supreme Court which has been described in Article 22E paragraph (2) of Law Number 18 of 2011 concerning the Judicial Commission can certainly resolve conflicts that occur between the Supreme Court and the Judicial Commission, especially in terms of monitoring the behavior of judges.⁶ In fact, looking back at Article 22E

⁶ Idul Rishan, *Komisi Yudisial Suatu Upaya Mewujudkan Wibawa Peradilan*, (Yogyakarta: Genta Press, 2018), p. 108.

paragraph (3) that the recommendation from the Judicial Commission shall apply automatically and must be implemented by the Supreme Court if within 60 (sixty) days after receipt of the recommendation no agreement is reached between the Judicial Commission and Supreme Court. However, because there are no rules regarding definite sanctions for the Supreme Court for not carrying out the recommendations of the Judicial Commission, the Supreme Court does not feel bound by the recommendations given by the Judicial Commission. Starting from this background, it is interesting to research and put it in the form of a journal entitled "Supervision of Judicial Bodies by the Judicial Commission".

METHOD

In order assigned the maximum results in this study using a type of normative legal research where the legal materials research literature (secondary data) that is still relevant to the problems late to be analyzed.⁷ using a normative juridical approach (statutory approach). The nature of this research is descriptive which describes the laws and regulations relating to legal theories which are

the objects of the research.⁸ The data source used in normative legal research is only library material (secondary data), therefore the data used in this study are: Secondary data which includes, primary legal material is material consisting of laws and regulations,⁹ namely the 1945 Constitution of the Republic of Indonesia, Law Number 48 of 2009 concerning Judicial Power, Law Number 1 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission. Secondary legal materials are books and scientific writings on law related to the object of research¹⁰, such as law books, scientific journals related to the subject matter in this study. Tertiary legal materials are legal materials that provide guidance and explanation of primary and secondary legal materials, such as legal dictionaries, encyclopedias, and cumulative indexes. All legal materials are collected using document study, observation or observation, and interviews. These three types of data collection tools can be used individually or in combination to obtain maximum results.¹¹ In this study only the document study

⁷ Soerjono Soekanto dan Sri Muadji, *Pengantar Penelitian Hukum*, (Jakarta: UI Press, 2012), p. 14.

⁸ Zainuddin Ali, *Metode Penelitian Hukum*, (Jakarta: Sinar Grafika, Cetakan Kedelapan, 2016), p. 105.

⁹ Soerjono Soekanto dan Sri Muadji, *Op.Cit*, p 29

¹⁰ Zainuddin Ali, *Op. Cit*, p 106

¹¹ Bambang Sunggono, *Metode Penelitian Hukum*, (Jakarta: Raja Grafindo, 2006), p. 114

method (literature study) was used. Materials were analyzed using a qualitative approach to polymer law materials and secondary legal materials.

DISCUSSION

Judge Supervision System in the Judicial Institution

The Judicial Commission is **lembaga** constitutional state is the Constitution of the Republic of Indonesia Year 1945 in Chapter IX of the Judicial Power . Since the birth of the Judicial Commission based on the 1945 Constitution, the third amendment of 2001, since then there have been changes in the institutions of the Indonesian judicial power. The existence of a check *and balance* pattern in judicial power began to be built with the existence of a Judicial Commission , apart from proposing the appointment of candidates for Supreme Court Justices, the Judicial Commission also has the authority to maintain and enforce the honor, dignity and behavior of judges.¹²

According to Jilmy Asshiddiqie, the purpose of establishing a Judicial Commission in the structure of Indonesia's judicial power is so that every citizen outside the parliamentary structure can be

¹² Heni Hendrawati, dkk, *Aspek Penegakan Kode Etik Hakim dalam Mewujudkan Kekuasaan Kehakiman yang Bermartabat dan Berintegritas*, Varia Justitia Volume 12 Nomor 1. 2016, p. 107-108.

involved in the appointment process, performance appraisal and the possibility of dismissing judges. However, the Judicial Commission is not the executor in judicial power. All of this is intended to maintain and uphold the honor, dignity and behavior of judges in realizing truth and justice based on the One Godhead. With the honor and nobility of its dignity, an independent and impartial judicial power is expected to be realized while being balanced by the principle of accountability for judicial power , both from a legal and ethical perspective. For this reason, an independent supervisory institution is needed on the judges themselves.¹³

The authority of the Judicial Commission is affirmed in Article 24A paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that candidates for supreme justice are proposed by the Judicial Commission to the House of Representatives for approval and subsequently appointed as supreme judge by the President.¹⁴ And Article 24B paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that “The

¹³ Eka NAM Sihombing, *Hukum Kelembagaan Negara*, (Yogyakarta: Ruas Media, 2018). P, 83-84.

¹⁴ Ichsan Anwary, *Lembaga Negara dan Penyelesaian Sengketa Kewenangan Konstitusional Lembaga Negara*, (Yogyakarta: Genta Publishing, 2018), p. 98.

Judicial Commission is independent and has the authority to propose the appointment of supreme justices and has other powers in order to maintain and enforce the honor of nobility and the behavior of judges.

The authority of the Judicial Commission in terms of maintaining and upholding the honor, dignity and behavior of judges is the spearhead for this state institution because it is directly related to the Judicial Commission's supervisory function of judges. It can be interpreted explicitly that the Judicial Commission's supervision of judges is carried out in terms of preventive and repressive measures. Preventive efforts undertaken by the Judicial Commission are in the form of activities to provide education for prospective judges as well as regular judge education and training. Meanwhile, in terms of repressive efforts to create the honor and dignity of judges, enforcement means discipline so that in practice it is followed by imposing sanctions for judges who violate the code of ethics and / or judges' code of conduct (KEPPH).¹⁵

The purpose of enforcing the code of ethics and code of conduct for judges is intended as a reference in order to enforce the Code of Ethics and Code of

Conduct for Judges and the objective of enforcing the code of ethics and code of conduct for judges aims to create certainty and understanding in the application of the code of ethics and code of conduct for judges. In the *International Judicial Conference* forum in Bangalore India in 2001, the draft code of ethics and conduct of judges worldwide was successfully agreed upon, known as *The Bangalore Draft*, which contained 6 (six) principles that should be used as a rule for judges universally, namely: (a) independence (*Independence Principle*); (b) impartiality (*Impartially Principle*); (c) integrity (*Integrity Principel*); (d) competence and thoroughness (*Competence and Diligent Principle*).¹⁶

Law Number 18 of 2011 concerning Amendments to Law Number 22 of 2004 concerning the Judicial Commission describes the duties of the Judicial Commission in maintaining and upholding the honor, dignity and behavior of judges, as follows:

- a. Monitor and supervise judge behavior;
- b. Receive reports from the public regarding violations of the Code of Ethics and / or Code of Conduct of Judges (KEPPH);
- c. Verify, clarify, and investigate reports of suspected violations of

¹⁵ Heni Hendrawati, *Op.Cit*, p. 113.

¹⁶ *Ibid*, p. 107-108.

the Code of Ethics and / or Code of Conduct of Judges;

- d. Take legal steps and / or other steps against individuals, groups of people or legal entities that undermine the honor and dignity of judges.

In carrying out its oversight function of judges, the Judicial Commission supervises the behavior of judges by receiving public reports, requesting regular reports from the judiciary regarding the behavior of judges examining judges, and summoning and requesting information from judges who are suspected of violating the code of ethics and / or code of conduct. the judge, then the examination result report is submitted to the Chief Justice of the Supreme Court, and copies to the President and DPR.

In carrying out its role and function, the Judicial Commission as a judge supervisor should not be arbitrary, obliged to obey the norms, laws and provisions in the statutory regulations and maintain the confidentiality of information given by judges which due to its nature is confidential, and in carrying out their duties as judge supervisors, The Judicial Commission must not reduce the freedom of judges in examining and deciding cases.¹⁷

Article 20 paragraph (3) of Law Number 18 Year 2011 concerning amendments to Law Number 22 Year 2004 concerning the Judicial Commission, states that the Judicial Commission can request assistance from law enforcement officials to conduct wiretapping and record breaches in the event of an alleged violation of the Code of Ethics. and / or Judge Code of Conduct.

This wiretapping authority is a new option for the Judicial Commission in carrying out its supervisory function. In wiretapping judges' phones, the Judicial Commission cannot directly do so because the Judicial Commission must request assistance from law enforcement officials from the KPK, the Police, and the Prosecutor's Office which have the authority to conduct wiretapping. This is because the Judicial Commission is not a law enforcement agency in its *pro-justicia* capacity . The Judicial Commission can request wiretapping assistance in this case based on existing facts and evidence from the findings of the Judicial Commission or reports from the public, not just a mere conjecture. This is done so that wiretapping measures can actually prevent judges from committing

¹⁷ Titik Triwulan Tutik, *Eksistensi, Kedudukan dan Wewenang Komisi Yudisial sebagai Lembaga Negara dalam Sistem Ketatanegaraan Republik*

Indonesia Pasca Amandemen UUD 1945, (Jakarta: Prestasi Pustaka, 2007), p. 170.

deviant acts and injuring the judge's dignity.¹⁸

Particularly in the field of code of ethics supervision, the Supreme Court and the Judicial Commission have held a Judge Honor Council Session for judges who have committed serious violations. The Supreme Court hopes that, by implementing these three systematic measures, there is no need to wait until 2035 to create a great judicial body. The Judicial Commission is an institution based on Article 24B of the 1945 Constitution of the Republic of Indonesia which has the authority to deal directly with the Supreme Court. Where, the Judicial Commission has the authority to propose the appointment of supreme justices and has other powers in order to maintain and uphold the honor of judges, the nobility of dignity, and the behavior of judges.

This provision means that the relationship between the Supreme Court and the Judicial Commission occurs because the Judicial Commission has the authority to propose the appointment of supreme judges and the Judicial Commission also has the authority to oversee the behavior of supreme justices and judges of judicial bodies under the Supreme Court.¹⁹

It is hoped that the external supervision of the judge's behavior by the Judicial Commission can cover the weaknesses of the internal supervision carried out by the Supreme Court. To reduce code violations judges Judicial Commission conducts training on the code of ethics and code of conduct of judges is done in stages, to include training K ode E tick and / or P Guidelines for P Behaviors H akim (KEPPH) for judges with terms of 0-8 years, training K ode E tik P Guidelines for P Behaviors H akim (KEPPH) f or judges with terms of 8-15 years, and training K ode E tick and / or P Guidelines for P Behaviors H akim (KEPPH) (for judges with tenure of more than 15 In 2014, the Judicial Commission has also conducted training with the theme "strengthening code of ethics and code of conduct for judges for judges with a working period of 0 to 8 years." The Judicial Commission has also compiled and has a module for strengthening the Code of Ethics and / or Code of Conduct for Judges. (KEPPH) for judges with a working period of 0-8 years.²⁰

Law enforcement conducted by the Judicial Commission against Judges who violate the Code of

¹⁸ Idu Rishan, *Op.Cit*, p. 110.

¹⁹ Eka NAM Sihombing, *Op.Cit*, p. 138.

²⁰ Heni Hendrawati. *Op.Cit*, p.126-131.

Ethics and Code of Conduct of Judges (KEPPH)

The formation of the Judicial Commission is also based on the idea of the importance of judge supervision in order to carry out fundamental reforms of the judicial system, not only with regard to institutional *reform* or regarding regulatory mechanisms that are instrumental (*instrumental* or *prodecural reform*), but also regarding personality and work culture. judicial apparatus and the legal behavior of our society as a whole (*ethical* and even *cultural reform*).²¹

The behavior of a judge that is contrary to the code of ethics can be influenced by factors of legal culture. Marina Kurchiyan, in her writing entitled "*Judicial Corruption in the Context of Legal Culture*" explains:

"That the perspective of legal culture shows us the importance of personal identity; feelings of honor and pride in belonging to a particular group of people; habits of networking in societies where survival depends on them; trust in one person and not in another; social and kinship relations; and above all the extent to which corrupt behavior can be tolerated by the general public".

²¹ Jimly Asshiddiqie, *Op.Cit*, p. 188.

According to Satjipto Rahardjo, stated that: "Law enforcement will always involve humans in it and thus will involve human behavior in it and thus will involve human behavior as well". In this regard, it can be concluded that the judges' constraints in enforcing the code of ethics can be broadly differentiated into internal and external constraints. Internal constraints are basically obstacles that affect judges in enforcing the code of ethics that come from within, and relate to the human resources (HR) of the judges themselves.²²

According to Baharudin Lopa, in one of his writings, he states:

"There are three conditions to enable the upholding of law and justice in society. First, the existence of legal rules in accordance with the aspirations of the community; Second, the existence of law enforcement officers who are professional and mentally tough or have commendable moral integrity; Third, the existence of community legal awareness which enables the implementation of law enforcement".²³

The presence of the Judicial Commission of the Republic of Indonesia as the mandate of the 1945 Constitution Article 24B, is a

²² Heni Hedrawati, *Op.Cit*, p. 123.

²³ *Ibid*, p. 125.

philosophical reflection of the ideals of the nation's law contained in the preamble of the 1945 Constitution, in line with the emergence of historical awareness of the future of an independent judicial power. independent and dignified.²⁴

It is important for every judge to adhere to the judge's code of ethics to be the absolute price that the judge must have, if he does not comply with the existing code of ethics, then the judge can be sure to have immoral behavior and his decision is also full of fabrications that can be influenced by others. Judges' code of ethics is a written rule that every Indonesian judge must guide in carrying out his professional duties as a judge, is a guide in order to maintain and uphold the honor, dignity and behavior of judges in carrying out their professional duties and in social relations outside the court.

The enforcement of the code of ethics and code of conduct for judges is intended as a reference in order to enforce the Code of Ethics and Code of Conduct for Judges and the objective of enforcing the code of ethics and code of conduct for judges aims to create certainty and understanding in the application of the code of ethics and code of conduct for judges. The *International Judicial*

Conference Forum in Bangalore India in 2001, successfully agreed on the draft code of ethics and conduct of judges worldwide to become *The Bangalore Principles of Judicial Conduct* 2002, which contains 6 (six) principles that must be used as a guideline for universal rights, namely:

- a. Independence (independence principle);
- b. Impartiality principles;
- c. Integrity (integrity principles);
- d. Appropriateness and politeness (propriety principle);
- e. Equality (equality principle);Kecakapan dan keseksamaan (*competence and diligence principle*).²⁵

The Judicial Commission is not a law enforcement agency (*the enforcer of the rule of law*), but is a judicial ethics enforcement agency (*the enforcer of the rule of judicial ethic and conduct*). The function of enforcing is a expressive effort to create the honor and dignity of judges. Enforcing means discipline so that in practice it is followed by the imposition of sanctions.²⁶

Components of legal mind, values, constitutions, principles, norms and legal structure. Juridically this is the moment that becomes central to the law's legal objectives, namely justice, law and benefit. Therefore, the normative moment will be the legal work experts to asasasas legal asasasas

²⁴ Adies Kadir, *Menjaga Moral Pejabat Publik*, (Jakarta Selatan: Merdeka Book, 2018), p. 169.

²⁵ *Ibid*, p. 151.

²⁶ *Ibid*, p. 171.

law as ratio legis or nutrition law. Normative moments are both the cornerstones of the juridical enforceability of the rule of law.²⁷

Basically, ethical sanctions are enforced for ethical violations committed by judicial officials, in this case the Chief Justice and Supreme Court Justices as well as the Chief Justice of the Constitutional Court and the Constitutional Court Judges through examination of ethical institutions with levels of sanctions. Violation is any attitude, speech and / or action committed by a judge that is contrary to the norms stipulated in the code of ethics and code of conduct of the judge. A judge who is proven to have violated the code of ethics will be subject to sanctions.

Sanctions consist of mild sanctions, moderate sanctions and heavy sanctions. Minor sanctions consist of:

- a. Verbal warning;
- b. Written warning;
- c. Pernyataan not satisfied in writing.

Sanctions currently consist of:

- a. Postponement of regular salary increases for a period of 1 (one) year;

- b. Penurunan salary of 1 (one) time salary increase periodically p aling 1 (one) year;
- c. The promotion delay is 1 (one) year long;
- d. H akim most lam nonpalu a six (6) months;
- e. M utasi to another court premises n the lower class;
- f. P embatalan or suspension of promotion,

S edangkan severe sanctions consist of:

- a. Exemption from office;
- b. H akim non hammer more than 6 (six) months and a maximum of 2 (two) years; demotion at the rank lower than the previous 3 (three) years;
- c. P emberhentian remain with pension rights;
- d. P emberhentian with respect.

Non-hammered judges are judges who are sentenced not to be allowed to examine and try cases within a certain time limit. Dismissal is a dismissal with respect or disrespectful dismissal, while temporary dismissal is a dismissal for a certain period of time against a judge before a court decision in a criminal case is subject to permanent legal force or a decision on permanent dismissal in accordance with statutory regulations, while what is meant by permanent dismissal. with pension rights as referred to in Law Number 18 of 2011 concerning amendments to Law Number 22 of 2004 concerning the Judicial

²⁷ Sihombing, Eka N.A.M., Muhammad Yusrizal Adi Syaputra, Implementasi Penggunaan Kecerdasan Buatan Dalam Pembentukan Peraturan Daerah (*The Implementation of Artificial Intelligence Usage in Local Legislation Forming*), *Jurnal Ilmiah Kebijakan Hukum*, Vol. 14, No. 3, November 2020.

Commission, interpreted as an honorable discharge.²⁸

In carrying out its duties and functions. One of the strengthening of the functions and duties of the Judicial Commission is regarding the implementation of the Judicial Commission sanctions recommendations. Previously, in Law Number 22 Year 2004 concerning the Judicial Commission, the Judicial Commission clearly did not have the authority to impose sanctions on judges deemed to have violated the ethics and behavior of judges. The previous authority of the Judicial Commission was only in the form of recommendations for sanctions to be followed up later. Now in Law Number 18 of 2011, the Judicial Commission is given a bit of authority in terms of the authority to impose sanctions.

The implementation of sanctions, which is often controversial, is now confirmed in law. If the Judicial Commission's decision is left unchecked within 60 days, it automatically takes effect and must be implemented by the Supreme Court, this is certainly one of its advantages. If in the past it had to be determined by the Supreme Court, not anymore. So when the Judicial Commission recommends sanctions for judges, the Supreme Court must participate. If the Supreme Court does not carry out the

recommendation for sanctions by the Judicial Commission, within 60 days the recommendation for sanctions will be applied automatically and must be implemented by the Supreme Court. This authority gives the Judicial Commission its teeth.

When there is a difference of opinion between the Judicial Commission and the Supreme Court regarding the Judicial Commission's proposal regarding the imposition of light, moderate and heavy sanctions, a joint examination between the Judicial Commission and the Supreme Court is carried out against the judge concerned. If the Supreme Court and the Judicial Commission have not reached an agreement, then the Judicial Commission's proposal for more than a period of 60 days and fulfills the provisions of violations in the realm of ethics and judge behavior, then the recommendation can be applied automatically and must be implemented by the Supreme Court. With this provision, the Supreme Court can no longer unilaterally reject the recommendation from the Judicial Commission. The implication of this provision is to reduce conflicts between the Judicial Commission and the Supreme Court in upholding the ethics and behavior of judges.²⁹

²⁸ *Ibid.*, p. 172-174.

²⁹ Idul Rishan, *Op.Cit.*, p. 115.

Professionalism without ethics makes it uncontrolled and without direction, while ethics without professionalism makes it progressive and even unstable. *The code of conduct* must be enforceable (*enforced*) which is confirmed by means of laws and regulations and the authority to impose disciplinary sanctions is first given to members of the professional association concerned. Violation of a professional code of ethics is not only a matter for the judge and the internal judiciary, but also a social problem.³⁰

CONCLUSION

The form of repressive (repressive) and preventive (preventive) supervision is included in the authority of the Judicial Commission to maximize its supervision and the Judicial Commission is only external, meaning that only the behavior of judges is supervised and not judicial technical which is the authority of the Supreme Court. In terms of monitoring repressive efforts of the Judicial Commission has only the imposition of recommendation to the judge allegedly infringing code of ethics and / or conduct of judges pendoman addressed to the Supreme Court.

³⁰ H.M Arsyad Sanusi, *Tebaran Pemikiran Hukum dan Konstitusi*, (Jakarta Selatan: Milestone, 2011), p. 382-383.

The supervision that has been carried out by the Judicial Commission has not been effective and must be maximized properly. The Judicial Commission does not have the authority to impose its own administrative punishment on judges and does not have the authority to investigate judges who are proven in the examination to violate criminal rules. So, if the implementation of the Judicial Commission's duties in maintaining and upholding the honor, dignity, and behavior of judges can be carried out properly, it will indirectly affect efforts to build a trusted judicial system.

The binding force in imposing sanctions imposed by the Judicial Commission against judges who violate the Code of Ethics and Judicial Code of Conduct is often not followed up by the Supreme Court, because there is no sanction for the Supreme Court for not implementing the recommendations that the Judicial Commission has given to judges who are suspected of having violates the code of ethics and / or code of conduct of judges. In fact, in the 1945 Constitution it has been mandated that the Judicial Commission is the institution to guard and enforce the Code of Ethics and Code of Conduct for Judges, which should impose sanctions imposed by the Judicial Commission, which is binding, not just a recommendation.

The Judicial Commission as a state institution that is directly

regulated in the state constitution must be given additional authority to examine and prove violations of the code of ethics and code of conduct of judges, also the authority of the Judicial Commission which must be given is the authority to directly punish based on the code of ethics and code of conduct of judges has been found guilty of violating the code of ethics and code of conduct of judges.

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