

**JURIDICAL ANALYSIS OF INDONESIAN PARLIAMENTARY ETHICAL
COMMITTEE: ANALYZING SUPERVISION FUNCTION WITHIN INDONESIAN
PARLIAMENT**

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Abstract

This research was made under the basis that the role of the People's Representative Council (Dewan Perwakilan Rakyat/DPR) the Republic of Indonesia supervision that fell to the Parliamentary Ethical Committee (Mahkamah Kehormatan Dewan/MKD) has not yet been fair and how to ensure that the Ethical Implementation in Indonesian Parliament can be done properly in a constructivism paradigm where the type of research method used is normative juridical and the specifications of this research have a descriptive-analytical nature with the approach used by the author being a statutory approach. The research results found that the supervision by the DPR of the Republic of Indonesia Honorary Court has not yet been fair was because most of Ethical Committee Member were fellow DPR Member causing the political interests of the respective political parties does not want their members to be sanctioned, even at the cost of not upholding the DPR ethics. Therefore, to improve the system for handling cases and supervision, the DPR Honorary Body, researchers found several solutions that can be implemented based on comparisons with Ethics Committees in the Parliaments of other countries. First, strengthening the independence of the Ethical Committee through external, non-partisan selection processes would mitigate political influence. Clearer ethical codes with enforceable penalties are crucial, ensuring accountability for violations. Legal protections to shield Ethical Committee decisions from political pressures are also proposed. Expanding Ethical Committee authority and sanctions, alongside mandatory public reporting, would enhance transparency and compliance. These reforms aim to address current challenges and elevate ethical standards within the Indonesian Parliament effectively.

Keyword: Honorary Court, DPR Member, Parliamentary, Ethics.

A. INTRODUCTION

Ever since the reformation era in Indonesia, the public trust to the People's Representative Council (legislature) is getting lower as the people's representative promises to accept the aspirations of the people, to uphold the law and justice is often questioned.¹ Due to the fact that many of the makers of legal products violate the law and abuse the law,² namely by accepting orders for legal products, accepting bribes, and being involved in misuse of state money (corruption), although in reality, the case isn't that high compared to other nations.³ Seeing this bad image of The People's Representative Council, then based on the People's Consultative Assembly, People's Representative Council, Regional Representative Council, and Regional People's Representative Council Law, the responsibility falls to the DPR Honorary Court.

Parliamentary Ethical Committee (*Mahkamah Kehormatan Dewan/MKD*) as its name suggests, was formed by the People's Representative Council (*Dewan Perwakilan Rakyat/DPR*) as a permanent DPR supporting body that consists of 17 people where its members are determined in a Plenary Meeting at the beginning of the DPR membership period and the beginning of the session year. The leadership of the DPR's Honorary Court is a collective and collegial leadership unit, consisting of 1 (one) Chairman and 4 (four) vice chairmen, who are elected from and by the members of the DPR's Honorary Court based on the principle of deliberation for consensus and proportionality by considering the representation of women according to the balance of the number of members of each faction where The procedures for carrying out the duties of the DPR's Honorary Court are regulated by the DPR RI Regulation concerning the Procedures of the DPR's Honorary Court.⁴

Recently, there are many cases that occur around the People's Representative Council (*Dewan Perwakilan Rakyat/DPR*) and Regional People's Representative Council (*Dewan Perwakilan Rakyat Daerah/DPRD*) that the public knows very clearly, such as allegations of political bias and undue influence. Partisan decisions and pressure from senior politicians to undermine the DPR's impartiality to escape accountability. This political interference complicates the Ethical Committee efforts to address the Performance within the parliament effectively. Despite Indonesia's ongoing struggle with corruption, the Ethical Committee actions are often seen as insufficient, with

¹ H. George Frederickson, and David K. Hart, "The public service and the patriotism of benevolence," *Public administration review* (1985): 549.

² Tonye Clinton Jaja, and Zaka Firma Aditya, "Promoting the Good Governance by Advancing the Role of Parliamentarians and the Term Offices Limitation (Comparing Nigeria and Indonesia)," *JILS 7* (2022): 265.

³ Esmi Warassih, Karolus Kopong Medan, and Mahmutarom, *Pranata Hukum: sebuah telaah sosiologis* (Semarang: Suryandaru Utama, 2005), 56.

⁴ Husen La Ode, *Hubungan Fungsi Pengawasan DPR Dengan Badan Pemeriksa Keuangan Dalam Sistem Ketatanegaraan Indonesia* (Bandung: CV. Utomo, 2005), 38.

sanctions perceived as too mild to deter unethical behavior⁵ as so far, the Ethical Committee has only acted after receiving complaints from the public and the leadership of the DPR,⁶ thus making the image of the DPR keep on plummeting.

The Ethical Committee also do not function optimally and tend to waste more time, thereby increasing the burden on the image of the DPR that and are not in accordance with the constitutional mandate. In fact, the Ethical Committee is expected to play a role not only as a guardian of the morals and integrity of DPR members, but also as an internal mechanism for enforcing the DPR's code of ethics.⁷ As a result, there is an increasingly severe crisis of morals and integrity as well as the values of justice in the aspirational and representative bodies that raises public dissatisfaction.

The number of cases of violations of the DPR's code of ethics, both reported and unreported, both those that have been prosecuted and those that have not been dealt with, have had an impact on reducing the image of the DPR, which is getting worse day by day.⁸ Quite a number of people in the community think that the problem of enforcing the DPR's code of ethics is due to the great interest of political parties in defending their cadres in cases of ethical violations. Therefore, there needs to be a change in the role of Ethical Committee, especially in their role to supervise DPR so that the Image of DPR in the eyes of the people can be better. Based on the background above, the author is interested in conducting research that focused on what caused the supervision by the DPR RI Honorary Court is not yet fair and how to ensure that the Ethical Implementation of the Ethical Committee in DPR can be done properly.

B. RESEARCH METHODS

This study uses a constructivism legal research paradigm approach. The constructivism paradigm in the social sciences is a critique of the positivist paradigm. According to the constructivist paradigm of social reality that is observed by one person cannot be generalized to everyone, as positivists usually do.

This research uses descriptive-analytical research. Analytical descriptive research is a type of descriptive research that seeks to describe and find answers on a fundamental basis regarding cause and effect by analyzing the

⁵ Naila Fitriah Salamah, and Sholikul Hadi, "Analisis Kewenangan Mahkamah Kehormatan Dewan Dalam Menjaga Harkat Dan Martabat Dewan Perwakilan Rakyat: Analysis of the Authority of the Honorary Court of the Council in Maintaining the Dignity and Dignity of the House of Representatives," *Constitution Journal* 2, no. 2 (2023): 105.

⁶ Ellydar Chaidir, *Sistem Pemerintahan Negara Republik Indonesia Pasca Perubahan Undang-Undang Dasar 1945* (Yogyakarta: Total Media, 2008), 77.

⁷ Ilham Gemiharto, "Government Communication of the Regional House of Representatives in the Process of Formulating Regional Regulations in Indonesia" *Jurnal Komunikasi Ikatan Sarjana Komunikasi Indonesia* 8, no. 1 (2023): 223.

⁸ Wiryanto et al., "Reconstruction of Ethics Supervision System Towards Constitutional Court Justice," *Const. Rev.* 3 (2017): 43.

factors that cause the occurrence or emergence of a certain phenomenon or event.

The approach method in research uses a socio-legal approach method. The sociological juridical is used by the author as it can give a more holistically approach not only in the perspective of law, but also from Social to study and examine the interrelationships associated with the reason why Ethical Committee Role in supervising People's Representative Council (*Dewan Perwakilan Rakyat/DPR*) weak, and how to make sure it's not as Socio-legal Approach is more effective.

Sources of data used include Primary Data and Secondary Data. Primary data is data obtained from field observations and interviews with informants. While Secondary Data is data consisting of:⁹

1. Primary legal materials are binding legal materials in the form of applicable laws and regulations and have something to do with the issues discussed, among others in the form of Laws and regulations relating to the Supervision by the Honorary Court to the DPR the Republic of Indonesia, that is DPR Regulation Number 1 of 2015 concerning the Code of Ethics for the House of Representatives of the Republic of Indonesia and the People's Consultative Assembly, People's Representative Council, Regional Representative Council, and Regional People's Representative Council Law.
2. Secondary legal materials are legal materials that explain primary legal materials.
3. Tertiary legal materials are legal materials that provide further information on primary legal materials and secondary legal materials.

The data was then analyzed using triangulation data analysis method to ensure credibility and the validity of the research by combining the data obtained from the field observation and interviews, the data obtained from literature and existing law, and the author's interpretation from the two data obtained.

C. RESULT AND DISCUSSION

1. Dynamics of Parliamentary Ethical Committee Supervision

Parliamentary Ethical Committee (*Mahkamah Kehormatan Dewan/MKD*) is an institution that aims to maintain the dignity of the House of Representatives. In the Indonesian context, there are problems related to legislative ethics that show the ineffectiveness of Ethical Committee as a

⁹ S. H. Faisal, *Menerobos positivisme hukum* (No. 159. Rangkang Education, 2010), 57.

legislative ethics commission. Therefore, it is necessary to restructure Ethical Committee on a proportional and independent basis to improve its performance. Parliamentary Ethical Committee acts as an institution for enforcing the ethics of board members based on applicable laws and regulations, so strengthening the position of Ethical Committee as a supervisor and enforcer of ethical violations of board members is important.

For human to be civilized, they must follow a set of ethics preordained by their ancestors,¹⁰ a culmination of their civilization, and the same could also be applied to People's Representative Council (*Dewan Perwakilan Rakyat*/DPR) where the members often violate the code of ethics, but always get away without sanctions. This is due to the political interests of the respective political parties which do not want their members to be sanctioned, even to uphold DPR ethics. Punishment of DPR members has a good aim but is difficult to implement in the form of more concrete regulations.

Syarifuddin¹¹ added that the law that maintains the DPR's code of ethics is the Parliamentary Law. Unfortunately, this law does not clearly regulate punishments for DPR members who commit ethical violations such as being involved in corruption cases or committed something that may tarnish the image of DPR. Further problem also stemmed from how the members of the Ethical Committee are chosen, as they came from the very same DPR they need to enforce the law, so the party they are in can affect the enforcement of the ethical code.

The DPR legislative body needs to evaluate the Parliamentary Law and DPR Rules, and the public should continue to push for improvements with sharp criticism. Corrections to the performance of board members are essential for better future performance. It is hoped that society will enforce accountability by selectively choosing ethical representatives in upcoming elections, avoiding candidates involved in corruption, drugs, or other unethical activities. DPR members, elected through general elections, must adhere to a professional code of ethics that defines their responsibilities and maintains their professionalism.¹² This code of ethics, along with DPR regulations and Ethical Committee procedural guidelines, ensures that members perform their duties with integrity, preventing irregularities and upholding ethical standards.

Basically, Parliamentary Ethical Committee has 2 functions, namely active function and passive function.¹³ The Ethical Committee active function is to evaluate each council member's absence at meetings, supervise legal

¹⁰ Enno A. Winkler, "Are universal ethics necessary? And possible? A systematic theory of universal ethics and a code for global moral education," *SN Social Sciences* 2, no. 5 (2022): 66.

¹¹ Syarifuddin Syarifuddin, and Kemas Gerby Novario, "Mahkamah Kehormatan Dewan (MKD) dan Penegakan Kode Etik DPR RI (DPR Honorary Council and The Enforcement of The Code of Ethics)," *Kajian* 22, no. 1 (2019): 9.

¹² Elsa Rina Maya Toule, "Rule of Law and Rule of Ethic in Law Enforcement in Indonesia," *Sasi* 28, no. 1 (2022): 60.

¹³ Zulkarnain Ridlwan, and Zainal Arifin Mochtar, "Regulate DPR's Committees: Making Indonesian Presidential System More Representative," *Fiat Justisia: Jurnal Ilmu Hukum* 13, no. 2 (2019): 136.

products produced by the DPR, and review the intensity of meetings held by the DPR. Regarding violations, the DPR Honorary Court always evaluates the absence of council members every 3 (three) months. In this violation, it was as if several board members were often absent from meetings. These meetings are not only at large-scale plenary meetings, but also at other meetings such as commission meetings and small-scale faction meetings.¹⁴ Following up on this, the Ethical Committee has given a verbal warning to the council member through the faction to which the council member belongs. Apart from evaluating attendance, Ethical Committee also evaluates the intensity of meetings held by board members. This is important, because when the intensity of meetings decreases, the legal products produced may also decrease.

The Parliamentary Ethical Committee has issued verbal warnings to commissions, factions, and other meetings with declining intensity and frequently investigates council members, even outside the DPR office. Investigations revealed that some council members frequently visited nightclubs, tarnishing the council's image. Consequently, the Ethical Committee has warned those members and their factions. Additionally, the Ethical Committee addresses incoming complaints, which are written notifications with initial evidence of suspected violations of the Rules and Code of Ethics by council members, and these complaint letters are internally discussed monthly.¹⁵

These complaints can be submitted by the public or institutions. Throughout 2009-2014, there were several complaints received from the public. However, of the complaints received, not all were followed up by the Ethical Committee because the complaints did not comply with applicable procedures. In that period, the Ethical Committee took action against 1 (one) complaint that complied with procedures, namely a case of immorality committed by one of the board members.¹⁶

Research conducted at the Ethical Committee indicates that the implementation of its function in enforcing the DPR code of ethics has not been optimal.¹⁷ Although the Ethical Committee has performed its duties reasonably well, numerous obstacles remain. Parliamentary Ethical Committee lacks effectiveness in enforcing the code of ethics, as its actions have not deterred

¹⁴ Nawra Al-Lawati, "Substantive representation of women, informal quotas and appointed upper house parliaments: The case of the Omani State Council," *Digest of Middle East Studies* 31, no. 4 (2022): 365.

¹⁵ Diah Imania, Retno Saraswati, and Hasyim Asy'ari, "Penegakan Kode Etik Anggota Dewan Perwakilan Rakyat melalui Mahkamah Kehormatan Dewan," *Diponegoro Law Journal* 5, no. 3 (2016): 11.

¹⁶ I. Nyoman Prabu Buana Rumiarta, Anak Agung Sagung Ngurah Indradewi, and Alarico Gomes, "Comparative Law on the Authority of the House of Representatives (Indonesia) with the National Parliament (Timor Leste)," *SASI* 29, no. 1 (2023): 23.

¹⁷ Shabrina Azzahrah et al., "Ethics in Law Enforcement: Analyzing the Police Professional Code of Ethics," *Journal of Legal and Cultural Analytics* 3, no. 1 (2024): 49.

members from violations.¹⁸ Enforcing ethics, particularly through factions in Parliament with recall power, is essential and should start from the recruitment process of parliament members.¹⁹ Parliamentary Ethical Committee often issues verbal sanctions, emphasizing family characteristics, which undermines its resolve in addressing violations. In the future, ethical rules must align with the determinations of ethics courts and trials. Following the enactment of Law No. 13 of 2019 on People's Consultative Assembly, People's Representative Council, Regional Representative Council, and Regional People's Representative Council Law, the Ethical Committee will be renamed the Supreme Court of Honor of the DPR. This change is expected to clarify rules and strengthen ethical sanctions.²⁰ Public understanding of politics, currently lacking reflection on the Code of Ethics, contributes to the perceived irrelevance of political ethics.²¹

The relevance of political ethics lies in its ability to manage power and regulate group interests by establishing fairer political institutions. An Honorary Board member should ideally be well-versed in Political Philosophy, Legal Philosophy, and Legal Science to reflect deeply on the ethical structures, meanings, and values within political life. The ethics-based monitoring system implemented by the Honorary Board is a novel approach in Indonesia's political structure. In a democratic system, this system is crucial for critically evaluating the manipulation of ideas, values, and opinions, thereby helping to distinguish between issues and facts. Consistently, the Honorary Board strives to implement an ethics-based supervision system by adhering to at least 3 (three) things, namely:²²

- a. The Honorary Board tries to distance itself from and be critical of political reality;
- b. The Honorary Board always works to test values, including moral values in the Code of Ethics; And
- c. The Honorary Board remains in perspective regarding the purpose of the Code of Ethics implemented in parliament.

Thus, members of political parties who have been elected through the General Election mechanism and become members of parliament can comply

¹⁸ Maciej Berek, "The Senate and the Council of Ministers—a Systemic Framework and Parliamentary Practice," *Studia Iuridica Lublinensia* 31, no. 5 (2022): 26.

¹⁹ Muhamad Arby Hariawan, "Implementation Evaluation of Public Participation in Drafting Laws Application as A Realization of Bureaucracy Reform Principles in the House of Representatives of the Republic of Indonesia," *Jurnal STIA Bengkulu: Committe to Administration for Education Quality* 9, no. 2 (2023): 204.

²⁰ Maureen M. Donaghy, and Jeffrey W. Paller, "Sustainability politics and housing development in urban Brazil and Ghana," *International Journal of Politics, Culture, and Society* 36, no. 3 (2023): 336.

²¹ Sugito Dapip Mashur, Bambang Giyanto, and Edy Sutrisno, "Competence-Based Recruitment of Non Civil Servant State Employees for The Internal Security Division, Secretariat General of The House of Representatives of The Republic of Indonesia," *DIA: Jurnal Administrasi Publik* 21, no. 01 (2023): 92.

²² Pan Mohamad Faiz, Saldi Isra, and Oly Viana Agustine, "Strengthening Indonesia's Regional Representative Council Through Judicial Review by the Constitutional Court," *SAGE Open* 13, no. 4 (2023): 21582440231204408.

and act collectively based on the Code of Ethics and Rules and Regulations. The code of ethics is an important set of rules in ensuring the accountability of a member of Parliament. "*The code of ethics is a tool to ensure that a member's performance process has reached sound political ethical standards, which are free from a mixture of personal interests, undisciplined attitudes, corruption and collusion, and negation of applicable regulations.*"

After understanding the Ethical Committee, the question arises: what causes the Ethical Committee low performance, leading to the DPR's tarnished image? This is an ethical question with socio-political relevance, involving Deontological Ethical Theory (whether actions or decisions are obligatory) and Utilitarian Ethical Theory (focused on the majority's pleasure).²³ The challenge of creating effective Code of Ethics rules lies in the Honorary Board's struggle with the "*Ethics and Law*" mystery: does it operate in the ethical or legal realm? This debate often occurs in dialogues, meetings, and sessions,²⁴ where ethical behavior provisions in the Code of Ethics intersect with positive law.²⁵ For instance, receiving rewards from work partners, regulated by the Code of Ethics, relates to laws on gratification. The Honorary Board's authority in such cases is unclear, reflecting an epistemological issue between ethics and legal studies. Practically, a technical and procedural approach from the U.S. legal system is proposed to address this.²⁶ Ethical decision-making involves freedom, with board members advised to remain unbiased and responsible. The Code of Ethics does not specify all violations, requiring members to interpret provisions based on investigations and hearings.²⁷ If board members' values differ on obligation and discrimination, sanctioning becomes a psychological, social, or political issue, highlighting the need for freedom in ethical decision-making over strict necessity through sanctions.

In the realm of Legal Philosophy,²⁸ obligation is seen as an unconditional necessity, commonly known as the Categorical Imperative, which forms the basis of human moral life. For Honorary Board Members, this means imposing sanctions not to achieve specific goals like popularity but as an intrinsic good, reflecting an appreciation of the norms of obligations in the Code of Ethics. This differs from the Problematic Hypothesis Imperative, where actions are conditional and goal-oriented, such as imposing sanctions for personal gain.

²³ Jimly Asshiddiqie, and Muchamad Ali Safa'at, *Teori Hans Kelsen tentang hukum* (Mahkamah Konstitusi RI, Sekretariat Jenderal dan Kepaniteraan, 2006), 10.

²⁴ La Ode Husen et al., "The Enforcement Of Ethics Of State Officials In The Indonesian Legal System," *Imperial Journal of Interdisciplinary Research (IJIR)* 3, no. 5 (2017): 1687.

²⁵ Bernadette Loacker, "Does the ethos of law erode? Lawyers' professional practices, self-understanding and ethics at work," *Journal of Business Ethics* 187, no. 1 (2023): 41.

²⁶ Darji Darmodiharjo, *Pokok-pokok filsafat hukum: apa dan bagaimana filsafat hukum Indonesia* (Jakarta: Gramedia Pustaka Utama, 1995), 46.

²⁷ M. Jullyo Bagus Firdaus and Megahnanda Alidyan Kresnawati, "Indonesia Parliamentary Diplomacy: The Leadership of House Representatives Republic of Indonesia in ASEAN Inter-Parliamentary Assembly (AIPA) 2011-2012," *WIMAYA* 2, no. 2 (2021): 44.

²⁸ Nyarwi Ahmad, "Political markets, the party-related factors and political party's market-orientation in Indonesia's democracy: evidence from Indonesia's 2014 parliamentary election," *Quality & Quantity* 56, no. 1 (2022): 343.

Such an approach is less ethical according to Kusuma's ethics,²⁹ which emphasize the intrinsic value of moral actions. However, Kusuma's ethical framework alone does not resolve the rationality issues in ethical decision-making. The Honorary Board also faces challenges in performance related to stricter Legislative Ethics regulations, like the Code of Conduct. Updating the Code of Ethics is an urgent need, while formulating a Code of Conduct is a long-term goal. The Board's role as a moral guardian is hindered by obstacles such as work procedures, the conduct of DPR members in expressing opinions and rebuttals, and issues related to sanctions and rehabilitation.³⁰

One example can be seen from the weakness of research techniques in the Law which prohibits DPR members from accepting gratuities, where the DPR Honorary Body is still working on a draft change to the code of ethics for DPR members.³¹ In this draft, it is known that there is an article that prohibits DPR members from accepting gratuities. If this draft is approved and ratified, then there will be no violation of the code of ethics for DPR members who receive money, goods, discounts, travel tickets, lodging facilities, free medical treatment and other facilities.³²

Article 208 Paragraph (3) of Law No. 27 of 2009 concerning the People's Consultative Assembly, People's Representative Council, Regional Representative Council, and Regional People's Representative Council Law which reads, "*Members of the DPR are prohibited from committing corruption, collusion and nepotism, and are prohibited from accepting gratuities.*" Furthermore, Article 209 Paragraph (3) regulates the sanction of permanent dismissal for members of the DPR who, based on a court decision, are proven to have committed corruption, collusion and nepotism and received gratuities.

Another problem that needs to be highlighted is the very formation of the Ethical Committee, as its members are selected from among DPR members themselves, making independent supervision challenging due to potential interventions. When political factions have missions that conflict with the Ethical Committee objectives, the Ethical Committee often becomes powerless. Political parties and their elites, deeply involved in corrupt practices, are formidable opponents for the Ethical Committee. Parliamentary Ethical Committee members risk being transferred or subject to interim replacement by their political party if they strongly oppose party interests, particularly

²⁹ Sufirman Rahman, Syahrudin Nawi, and A. Chaidir Syam, "The Oversight Function of The House of Representatives of The Regional Parliament on The Implementation of The Regional Budget of Maros Regency," *Journal of Law and Sustainable Development* 12, no. 1 (2024): e2507.

³⁰ James A. Gordon, "Doing wellbeing policy: A discussion on public policy making for integrative prosperity," *Australian Journal of Public Administration* 83, no. 1 (2024): 135.

³¹ Bambang Panji Gunawan et al., "Role Optimization of Regional Representative Council in The Legislative Function," *Srawung: Journal Of Social Sciences And Humanities* (2023): 18.

³² Arsyad Nasrullah, and Rahmat Rahmat, "The Conception of Environmental Sovereignty For The Discovery of Just Law In The Field of Environment in Indonesia," *The Conception of Environmental Sovereignty for The Discovery of Just Law in The Field of Environment in Indonesia* 11, no. 12 (2023): 9.

regarding the Ethical Committee role in fostering good governance in the DPR. For instance, Article 57 of the DPR's rules of procedure grants factions' significant authority to replace their Ethical Committee members at any time, undermining Ethical Committee independence and leading to selective decisions. When alleged code of ethics violations involve the ruling party or its elites, expecting optimal performance from the Ethical Committee is unrealistic. However, the Ethical Committee can make significant decisions, such as dismissing members whose positions are not influential. The final issue is the lack of a concrete and operational definition of what constitutes a code of ethics violation. Currently, violations are equated with legal criminal violations, requiring to wait for court decisions before imposing sanctions, as seen in the unresolved bribery case involving all members of DPR Commission IX from 1999–2004, where the Ethical Committee has yet to enforce the code of ethics.³³

Based on the above description, two conclusions can be drawn regarding the Ethical Committee performance: there is a desire within the DPR RI to expand individual authority and enhance transparency, yet accountability has diminished. The presence of DPR members at meetings is crucial to gauge their performance and support for the people.³⁴ The DPR's functions—legislation, budgeting, and oversight—require adequate resources and transparency. Thus, the Financial Audit Agency (*Badan Pemeriksa Keuangan/BPK*) and the State Financial Accountability Agency (*Badan Akuntabilitas Keuangan Negara/BAKN*) must strengthen the supervisory function. Despite the Ethical Committee improvements and internal reforms, public skepticism persists due to perceived selective enforcement of sanctions for varying violations. Past ethics breaches, such as unproductive foreign trips, budget manipulation, and asset reporting non-compliance, have often gone unsanctioned. The DPR leadership and the Honorary Court must address public concerns about favoritism in sanctions, as differing treatments of similar offenses raise suspicions of political bias or attempts to undermine particular parties.³⁵

2. The Role and Enforcement of Parliamentary Ethical Committee

The House Ethics Committee in the Indonesian Parliament, known as the Ethical Committee, is tasked with maintaining the dignity of the House by

³³ Wahyu Widodo, and Toebagus Galang, "Poverty, Evictions and Development: Efforts to Build Social Welfare Through the Concept of Welfare State in Indonesia," In *3rd International Conference on Globalization of Law and Local Wisdom (ICGLOW 2019)*, pp. 260-263. Atlantis press (2019): 31.

³⁴ Oana Ștefan, "Preserving the Rule of Law Through Transnational Soft Law: The Cooperation and Verification Mechanism," *Hague Journal on the Rule of Law* (2024): 16.

³⁵ Naila Fitriah Salamah, and Sholikul Hadi, "Analisis Kewenangan Mahkamah Kehormatan Dewan Dalam Menjaga Harkat Dan Martabat Dewan Perwakilan Rakyat: Analysis of the Authority of the Honorary Court of the Council in Maintaining the Dignity and Dignity of the House of Representatives," *Constitution Journal 2*, no. 2 (2023): 109.

enforcing ethical conduct among its members. It operates through active functions like evaluating attendance and meeting participation, and passive functions such as addressing public complaints. However, the committee faces significant challenges due to political influence and lack of independence, as its members are selected from the People's Representative Council (*Dewan Perwakilan Rakyat/DPR*) itself, leading to potential conflicts of interest and ineffective enforcement. This has resulted in sanctions typically being limited to verbal warnings rather than more concrete actions. The ethical code, outlined in the Parliamentary Law and DPR regulations, is criticized for vague provisions and lack of clear punitive measures for serious violations like corruption. Although the public can submit complaints, many are not followed up due to procedural issues and political party influence. Parliamentary Ethical Committee (*Mahkamah Kehormatan Dewan/MKD*) effectiveness is further compromised by political interests that hinder the imposition of sanctions against members who violate ethical codes. It supervises members based on laws and regulations, evaluating their attendance at meetings, the legal products they produce, and their behavior outside the office. For unethical conduct, such as frequent absences from meetings or actions that tarnish the council's image, the Ethical Committee conducts investigations and issues verbal warnings. However, enforcement is challenging due to political party influences that often protect members from sanctions. While the Ethical Committee has the authority to conduct investigations, hold hearings, and recommend sanctions ranging from warnings and reprimands to suspension or expulsion, substantial actions against members are rare, underscoring the need for the Ethical Committee to operate more independently and impartially. Therefore, we conducted a comparison between the Court of Honor in the Indonesian Parliament and several other countries to find out the differences and solutions to the shortcomings that exist in ethical implementation in the Indonesian Parliament.

In terms of ethical enforcement, the Regulation Committee in the Parliament of New South Wales focuses on scrutinizing legislative instruments and ensuring they comply with the principles set out in the Legislation Review Act 1987. Established to review all legislative instruments subject to disallowance, the committee assesses them against established scrutiny principles, including policy content and substantive nature. Recent amendments in October 2023 have expanded its functions to include more comprehensive scrutiny of statutory instruments. The committee operates under a robust framework provided by the Legislation Review Act 1987 and specific parliamentary resolutions, ensuring transparency and accountability. Its reports and recommendations on legislative instruments are made public

and tabled in the House, promoting oversight without directly involving itself in individual members' conduct.³⁶

On the other hand, the committee on the Danish Council of Ethics focuses on the ethical scrutiny of legislative instruments rather than individual legislators' behavior. It operates under the Legislation Review Act 1987, considering all legislative instruments subject to disallowance and evaluating them against established ethical principles. The enforcement mechanism involves recommending disallowance of instruments that do not meet ethical standards, indirectly influencing the behavior and decisions of legislators through legislative scrutiny.³⁷

In the Parliament of Sri Lanka, the Committee on Ethics and Privileges is tasked with examining questions of privilege and breaches of conduct and etiquette. The Committee determines the nature and circumstances of each breach and recommends actions accordingly. It has the authority to summon individuals, call for documents, and employ experts for its investigations. The Committee's findings and recommendations are presented to Parliament, which may impose sanctions based on these recommendations. The Sri Lankan Committee on Ethics and Privileges follows Standing Order No. 118, which outlines the committee's responsibilities and procedures. This includes the examination of violations of the Code of Conduct and the power to summon witnesses and documents. The Committee can also make rules to regulate its procedure and issue directions for examining cases related to ethical misconduct. In Sri Lanka, the enforcement process is more structured. The Committee on Ethics and Privileges presents its reports to Parliament within six weeks. Parliament then considers the Committee's recommendations and may impose sanctions on members if deemed necessary. This process ensures that violations are formally addressed and members are held accountable for their actions.³⁸

Ethical enforcement in the Committee of Privileges and Ethics in the Kerala Legislative Assembly oversees both the moral conduct and ethical behavior of members, inside and outside the Assembly. Nominated by the Speaker, this committee comprises up to nine members at the beginning of each session. It functions under a specific mandate to investigate cases referred to it by the Speaker, involving breaches of privilege or ethical misconduct. Guided by a detailed Code of Conduct outlined in its procedural documents, the committee conducts thorough investigations, including

³⁶ Parliament of New South Wales, "Standing Committee on Parliamentary Privilege and Ethics," July 7, 2024, <https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=180>

³⁷ The Danish Parliament, "The Committee on the Danish Council of Ethics," July 7, 2024, <https://www.thedanishparliament.dk/committees/committees/the-committee-on-the-danish-council-of-ethics>

³⁸ The Parliament of Sri Lanka, "Committee on Ethics and Privileges," accessed July 7, 2024, <https://www.parliament.lk/en/component/committees/committee/showCommittee?id=214&type=committee&Itemid=206>

summoning individuals and requesting documents to ensure comprehensive reviews. When breaches are identified, the committee presents its findings and recommendations to the Assembly for consideration. The Assembly then decides whether to adopt these recommendations, thereby allowing for a democratic process in enforcing ethical standards. The committee's structured approach and procedural clarity provide a framework that supports effective enforcement of ethical guidelines within the legislative body.³⁹

Ethical enforcement in the Nigerian Senate Committee on Ethics, Privileges, and Public Petitions focuses on addressing grievances and ethical issues related to public officers and institutions. Empowered by the 1999 Constitution and Senate Standing Rules, the committee investigates petitions and hears grievances from Nigerians against public authorities. It operates as a fact-finding body, making recommendations based on its investigations. However, unlike the Indonesian Ethical Committee, the Nigerian committee does not directly enforce sanctions; instead, it submits its findings and recommendations to the Senate for further action. The Senate then decides on the appropriate course of action, which may include approving sanctions or other measures. In terms of enforcement mechanisms, the Indonesian Ethical Committee has more direct authority to recommend and initiate sanctions against violating members, subject to parliamentary approval. In contrast, the Nigerian committee's recommendations serve as influential guidance, with the Senate holding the final authority over enforcement decisions. Both committees operate within the legal frameworks defined by their respective national constitutions and parliamentary rules, ensuring their actions are governed by established legal boundaries.⁴⁰

The comparison between the Indonesian Parliamentary Ethical Committee and ethics committees in other countries highlights significant differences in effectiveness and enforcement mechanisms. Parliamentary Ethical Committee struggles with political independence and often issues minor reprimands due to political interference. In contrast, the New South Wales Regulation Committee provides detailed and transparent legislative scrutiny within a clear legal framework. Similarly, the Danish Council of Ethics ensures ethical compliance of statutory instruments through a structured framework, unlike the Ethical Committee, which faces challenges in maintaining ethical conduct due to internal politics. The Sri Lankan Committee on Ethics and Privileges and the Committee of Privileges and Ethics in Kerala operate with more robust enforcement mechanisms supported by clear regulations, contrasting with the Ethical Committee limited effectiveness. The Nigerian

³⁹ Kerala Legislative Assembly, "committee of privileges and ethics - Kerala Legislature," July 7, 2024, <https://niyamasabha.nic.in/index.php/committe/index/13>

⁴⁰ Parliament of New South Wales. "Standing Committee on Parliamentary Privilege and Ethics," July 7, 2024, <https://senateethicsandprivileges.org.ng/p/about-the-committee/>

Senate committee, while acting primarily as an investigative body, guides further legislative actions, differing from the Ethical Committee direct authority in sanctioning members. These comparisons underscore how institutional design and political dynamics influence the enforcement of ethical standards in legislative bodies.

3. Ethical Implementation in the Indonesian Parliament: Juridical Analysis

The tendency of modern democratic countries is to reflect the sovereignty of the people with a representative system, meaning that the people elect someone they trust to represent themselves. Euzébios,⁴¹ saw that people's government on a large scale (nation state) could only be formed with a representative system as a form of democratic government, a government with the sovereignty of the people. Eslami,⁴² in the same context, believes that, while still adhering to the understanding of popular sovereignty, an appropriate system must be sought to discuss state issues and then make decisions for countries that have a large number of citizens such as Indonesia. The system adopted in the Republic of Indonesia is regulated in the 1945 Constitution of the Republic of Indonesia.

The Indonesian state adheres to the understanding of popular sovereignty, we can see this in Pancasila and the 1945 Republic of Indonesia Constitution. The fourth principle of Pancasila, namely states "*The people are led by wisdom in deliberation/representation*". In Pancasila, the concept of democracy can be interpreted as the importance of the people's voices in politics. The concept of democracy also means the power of the people to supervise and participate in making public decisions. Thus, the concept of democracy is identical to the concept of popular sovereignty. Meanwhile, the principle of popular sovereignty in the 1945 Republic of Indonesia Constitution after amendments is emphasized in Article 1 paragraph (2) which states that "*Sovereignty is in the hands of the people and is implemented by the 1945 Republic of Indonesia Constitution*". This is a fundamental change regarding the understanding of popular sovereignty where the previous text stated "*Sovereignty is in the hands of the people, and is exercised entirely by the People's Consultative Assembly*". People's sovereignty, which was previously exercised entirely by the People's Representative Council (*Majelis Permusyawaratan Rakyat*/MPR) as the highest state authority (Supremacy of the People's Consultative Assembly), is now implemented by the Constitution. Thus, in theoretical concept, the Constitution as a fundamental law, is the

⁴¹ Antonio Euzébios Filho, and Stéphanie Chiconeli Tabata, "Political cynicism and political efficacy: reflections on political representation and participation with students from a Brazilian Public University," *SN Social Sciences* 3, no. 2 (2023): 27.

⁴² Rohollah Eslami, and Afsane Danesh, "Critical analysis of the representation of government in cyberspace; case study of the Islamic Republic of Iran," *GeoJournal* 88, no. 2 (2023): 1224.

crystallization of the people's agreement (social contract) as holders of sovereignty regarding how they live in manifestation of their sovereignty.⁴³ Then the Constitution, which is the basic legal instrument of the people and also the holder of sovereignty, henceforth delegates power in the form of authority to State institutions to run the wheels of the State.

The changes or amendments to the 1945 Constitution, apart from changing a new understanding of popular sovereignty, have also fundamentally changed the structure of the government system in Indonesia. The amendments themselves were carried out in stages using an addendum system to the 1945 Constitution: 1st Amendment (19 October 1999), 2nd Amendment (18 August 2000), 3rd Amendment (10 November 2001), 4th Amendment (10 August 2002). Meanwhile, the 1945 Constitution before the amendments consisted of 16 chapters and 37 articles. If calculated in the smallest parts consisting of 65 points including chapters, articles and paragraphs, it can be said to be the simplest Constitution in the world. Of the 37 articles of the original 1945 Constitution, only five articles were not touched upon by changes, namely Article 4 concerning Governmental Powers, Article 10 concerning the President's Power to hold Supreme Power over the Army, Navy and Air Force, Article 12 concerning the President declaring a state of danger, Article 22 concerning Government Regulations in Lieu of Law, Article 29 concerning Religion, Article 35.

By analyzing the points resulting from changes to the 1945 Constitution, for 4 consecutive times our nation has completed the agenda for changes to the 1945 Constitution of the Republic of Indonesia, namely with the First Amendment in 1999, the Second Amendment in 2000, the Third Amendment in 2001, and the Fourth Amendment in 2002. With these four amendments, the number of regulatory materials, which originally only consisted of 71 provisions or 71 paragraphs or articles, increased to 199 provisions. In the total 199 points of regulatory material, only 25 provisions have not undergone changes or are still as original when they were ratified on August 18 1945, while the remaining 174 points are completely new regulatory material. Thus, it can be said that with only four amendments, although the name of this Constitution still uses the old name, its contents have undergone fundamental changes in multiples, namely 25 compared to 174 provisions.

What is also very important to note in the framework of these changes is that now, the constitution, which is officially named the 1945 Constitution of the Republic of Indonesia or abbreviated as the 1945 NRI Constitution, provides a mechanism so that the basic legal norms contained therein can be implemented and monitored. by a judicial institution called the Constitutional

⁴³ Henri Njangang, and Youssouf Nvuh-Njoya, "Unravelling the link between democracy and economic complexity: fresh evidence from the Varieties of Democracy data," *SN Business & Economics* 3, no. 3 (2023): 77.

Court. The People's Consultative Assembly is the institution that establishes and/or amends the Constitution, but after it is determined the Constitutional Court is tasked with overseeing it. Even if in the formulation of the provisions of the Constitution there are deficiencies or ambiguities here and there, the Constitutional Court is the one who is given the authority to determine the correct interpretation regarding this matter. For this reason, the Constitutional Court in various countries is usually referred to as the guardian and interpreter of the constitution or "*the guardian and the sole and the highest interpreter of the constitution*". However, it must be understood that the monitoring and interpretation of the Constitution by the Constitutional Court is carried out not in a separate way, but through the medium of decisions on the cases it hears. What can be examined, tried and decided by the Constitutional Court are constitutional cases related to:⁴⁴

- a. Testing the constitutionality of laws;
- b. Disputes over constitutional authority between State institutions;
- c. Dispute over general election results;
- d. Dissolution of political parties; And
- e. Opinion of the DPR in the context of prosecuting responsibility for the dismissal of the President and/or Vice President according to the 1945 Constitution.

The decisions in cases related to the five types of authority of the Constitutional Court are basically a concrete manifestation of the monitoring and interpretation function carried out by the Constitutional Court regarding the basic laws of the 1945 Constitution of the Republic of Indonesia. Due to the importance and strategic position of The Constitutional Court is a new state institution in our post-change constitutional system, so deliberate efforts are needed for this court to introduce itself to society.

The widespread violation of the code of ethics by members of the DPR means that the Honorary Body must operate in accordance with the mandate of the law as an effort to maintain the image of both the DPR RI institution and the image of political parties. The DPR Honorary Body is one of the important parliamentary equipment, in enforcing members' code of ethics, as a tool on the one hand it is very useful and on the other hand it has very difficult challenges.⁴⁵

Parliamentary Ethical Committee faces significant challenges compared to ethics committees in other countries. One major issue is the lack of

⁴⁴ Rangga Ryo Rizki et al., "An Analysis of Law No. 17 Of 2014 on National Parliamentary Assembly, House of Representative, Regional House Council, and Regional House Representative: Viewed From The Principles of Good Governance," In *IOP Conference Series: Earth and Environmental Science*, vol. 175, no. 1, p. 012127. IOP Publishing, (2018), 71.

⁴⁵ Heru Pradijonrika, "The Role of People's Representatives Council and President Post the Amendment to Basis of the 1945 Law in The Establishment of Law," *Journal of World Science* 1, no. 11 (2022): 1069.

independence due to the selection of its members from within the DPR itself, leading to conflicts of interest and ineffective enforcement. This contrasts with committees like those in Sri Lanka and Kerala, which operate with clearer mandates and more independence. Additionally, the ethical code in the Indonesian Parliamentary Law and DPR regulations is criticized for its vague provisions and lack of clear punitive measures for serious violations such as corruption. In contrast, the Regulation Committee in New South Wales and the Danish Council of Ethics operate under robust frameworks with detailed scrutiny principles. Political interference further hampers the Ethical Committee, as political party influence often protects members from sanctions, unlike the structured enforcement mechanisms in Sri Lanka and Kerala that ensure violations are formally addressed. Moreover, the Ethical Committee DPR's authority is often limited to issuing verbal warnings rather than taking substantial actions, whereas committees like the Nigerian Senate Committee on Ethics, Privileges, and Public Petitions have influential authority to guide legislative actions based on their findings.

To overcome these shortcomings, several solutions can be implemented. Enhancing the independence of the Ethical Committee could involve establishing a selection process that includes external, non-partisan stakeholders, reducing political influence. Clarifying the ethical codes and punitive measures is also crucial; revising the ethical code to include specific, enforceable punitive measures would ensure tangible consequences for violations. Additionally, reducing political interference could be achieved by implementing legal provisions that protect the Ethical Committee decisions from political pressure. Finally, expanding the authority and sanctions of the Ethical Committee by granting it broader enforcement powers and mandating public reporting of enforcement actions would increase transparency and improve compliance. Implementing these solutions can help the Ethical Committee overcome its current challenges and improve the ethical standards within the Indonesian Parliament.

D. Conclusion

What caused the supervision of the Parliamentary Ethical Committee (*Mahkamah Kehormatan Dewan*/MKD) that has not yet been fair was caused by the political interests of the respective political parties that do not want their members to be sanctioned, even at the cost of failing to uphold the People's Representative Council (*Dewan Perwakilan Rakyat*/DPR) ethics. Punishment of DPR members has a good aim but is difficult to implement in the form of more concrete regulations. Therefore, in order to ensure that the Ethical Implementation in Indonesian Parliament can be done properly, the DPR Honorary Body must develop strategies and an effective monitoring system for the implementation of the DPR's duties and functions, and how to

prevent and control the possibility of violations committed by DPR members. To improve the system for handling cases and supervision, the DPR Honorary Body, researchers found several solutions that can be implemented based on comparisons with Ethics Committees in the Parliaments of other countries. First, strengthening the independence of the Ethical Committee through external, non-partisan selection processes would mitigate political influence. Clearer ethical codes with enforceable penalties are crucial, ensuring accountability for violations. Legal protections to shield Ethical Committee decisions from political pressures are also proposed. Expanding Parliamentary Ethical Committee authority and sanctions, alongside mandatory public reporting, would enhance transparency and compliance. These reforms aim to address current challenges and elevate ethical standards within the Indonesian Parliament effectively.

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