

## **RESPONSIBILITIES AND PROFESIONALISM OF JUDGE**

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### **Abstrak**

*Kekuasaan kehakiman adalah kekuasaan negara yang merdeka untuk menyelenggarakan peradilan guna menegakkan hukum dan keadilan berdasarkan Pancasila, demi terselenggaranya Negara Hukum Republik Indonesia. Pernyataan tersebut merupakan pengertian kekuasaan kehakiman yang tercantum pula dalam Pasal 1 Undang-Undang Nomor 4 Tahun 2004 tentang Kekuasaan Kehakiman. Sebagai konsekuensi dari sistem pembagian kekuasaan yang diterapkan di negara ini, fungsi kekuasaan kehakiman atau yudikatif dipegang oleh lembaga lembaga yang telah ditentukan oleh UUD 1945. Bab IX UUD 1945 menyebutkan tiga lembaga negara yang termasuk dalam lingkup kekuasaan kehakiman, yaitu Mahkamah Agung (MA), Mahkamah Konstitusi (MK), dan Komisi Yudisial (KY). Namun, menurut Pasal 24 ayat (2), hanya MA (dan badan peradilan di bawahnya) dan MK yang merupakan penyelenggara kekuasaan kehakiman, sedangkan KY tidak memiliki kewenangan tersebut sehingga badan ini sering disebut sebagai lembaga ekstra-yudisial.*

*Judicial power is the power of an independent state to hold court to conduct of law-enforcement and justice based on the Pancasila to found the law-based-state, Republic of Indonesia. This statement becomes the definition of judicial power which listed in the Article 1 of Constitutional No.4 2004. As a consequence of power sharing system that is applied in Indonesia, the judiciary or judicial functions held by judicial institutions set by the 1945 Constitution. Chapter IX of the 1945 Constitution mentions three state agencies within the scope of judicial power, i.e. the Supreme Court (MA), the Constitutional Court (MK), and the Judicial Commission (KY). However, according to the Article 24 paragraph 2, only the Supreme Court (and judicial bodies underneath it) and the Constitutional Court (MK) holds the authority as organizer of judicial power. Meanwhile, the rest of judiciaries are often referred as extra-judicial institutions.*

**Key Words:** judge, power, judiciary, state.

## A. Introduction

Court as the executor of the judicial authorities is one important element in a state-based on law (*rechtsstaat*). Only in court system meets the criteria of an independent, impartial, and competence can ensure the fulfilment of human rights. Therefore, the position of judge as the main actor in judiciary becomes very vital, especially given all authority related to justice. Through his decision, the judge may alter, divert, or even revoke the rights and freedoms of citizens, and it was all done in order to uphold law and justice.

Judge holds the authority and high responsibility demonstrated by the decision of a court judge who is always spoken with jargon "By justice based on the belief in the Almighty God." This confirms that the obligations of justice are not only accountable to our fellow human beings, but also to God the Most one.<sup>1</sup>

Every profession in various fields has values that are cherished to be used as guidance in the life of the relevant professions. Therefore, it is with professionalism of judges in Indonesia, where there is a code of ethics that is based on the values prevailing in Indonesia and the universal values for the judge as the executor of the judicial function. Code of conduct is important for judges to regulate the discipline and conduct of judges in carrying out his profession. Indonesian Judges Professional Ethics was first conceived by the Indonesian Institute of Justice (IKAHI) at its third congress on 5-7 April 1965.<sup>2</sup>

Over time, the development of various matters around IKAHI as "container" professional codes of ethics of judges and justices in Indonesia continues. And the most recent debate is when the Supreme Court issued a Code of Conduct together with the ratification of Conduct Code of Ethics of Judges composed of KY; so, the dispute has become part of the disagreement between the MA and the KY. Associated with a growing phenomenon within the community surrounding the conflict between the Supreme Court and the Judicial Commission, the chief Justice Corruption, Sophian Marthabaya argues that a code of ethics is applicable to a particular profession; so that, a code of

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1 Opening Ceremony of Judges Code of Conduct in 2006 held by the Supreme Court of the Republic of Indonesia.

2 Iskandar Kamil, "*Code of Professional Ethics of Judges*," the Judges Code of Conduct (Code of Conduct), Code of Justice and Related Papers, (Supreme Court, 2006), p.. 3.

ethics should be drafted by the relevant institutional body who will run codes.

Enforcement of the rule of law as part of the reform agenda has been a commitment by the national government since the collapse of the New Order regime to the present. However, the expectation in seeking justice against the judiciary as the last effort for justice can not fully satisfy all parties. Public criticism points out that the judiciary has not been reformed as expected. Slow handling cases, the costs, complicated administration, deeds and behaviour that are considered reprehensible judicial officials, up to allegations of mob justice (judicial corruption) are among the reasons of most people are not convinced of the judiciary system.

Establishment of the Judicial Commission as an external watchdog is based on these internal control weaknesses. According to Mas Achmad Santosa, weak internal controls was caused by several factors, among others : <sup>3</sup>

1. quality and integrity of inadequate oversight;
2. discipline inspection process is not transparent;
3. there is no convenience to disadvantaged communities to submit complaints, monitor the process and outcome (lack of access);
4. defend the spirit of fellow corps (*esprit de corps*) which resulted in disproportionate sentences with deeds. Any attempt to fix a bad condition will definitely get a reaction from the party that had benefited from the bad conditions,
5. there is no strong desire of the leadership of enforcement agencies law to follow up the results of supervision.

The things described above indicate that the ineffectiveness of the judicial function of internal control is basically caused by two main factors, namely the defense of fellow corps (*esprit de corps*) and the absence of a genuine will from the leadership of the judiciary to follow-up results internal supervision of the judge. As a result, opportunities for judges who proved to have violated the law and code of ethics to get "forgiveness" from the head of the relevant judicial bodies will be more open. Therefore, the presence of a special agency that runs the external oversight function of the judge is very urgent.<sup>4</sup>

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3 Hermansyah, "Role of the Judge Institute of the External Supervisor," <<http://www.Monitoring.peradilan.com>>, 8 April 2009 .

4 *Ibid* p..30

## **B. Legal Profession as A Judge in Indonesia**

As a profession related to the process in court, the judge definitions contained in Law No. 8 of 1981 on Criminal Proceedings, or the so-called “Book of the Law of Criminal Law” (Procedure Code). Article 1 point 8 Code of Criminal Procedure states, the judge is a judicial officer who is authorized by state law to judge.

While the judge interpreted as a series of actions the judge to receive, examine, and decide the case based on the principle of free, fair, and impartial in the trial court in this case and according to the procedures prescribed in constitutional law.

Judges have an important position and role for the sake of state law. Therefore, there are some shared values and must be respected by persons with professional judges in performing their duties. Value is defined as the nature or quality of something useful for human life, both physically and spiritually. For humans, the value used as a foundation, reason, or motivation to act and behave, whether conscious or not. The values as follows:

1. Profession is a profession that an independent judge to enforce the law and justice based on the Five Principles for the implementation of state laws of the Republic of Indonesia. Here the inherent value of freedom and justice.
2. Furthermore, the value of justice is also reflected in the obligation of judges to hold court in a simple, rapid, and low cost, so that justice can reach everybody. In the hearing, the judge also must not discriminate people and must respect the presumption of innocence. This obligation to uphold justice is not horizontally accountable to our fellow human beings, but also vertically to God Almighty.
3. The judge may not refuse to examine and adjudicate a case filed under the pretext that the law does not exist or is less clear. If the judge sees a legal vacuum because there is no lack of clarity or the law governing a matter, then he must dig up the value of laws that live in the community. This value is named as the value of openness.
4. Judges shall uphold cooperation and authority of the corps. The value of cooperation is evident from the proceedings in the form of assemblies, with at least consists of three judges. Before dropping its verdict, the judges are doing in a closed session deliberation.

5. Judges must always account for all attitudes and actions. The vertical mean he is responsible to God Almighty. While horizontal accountability means directed against our fellow human beings, either to the higher judiciary as well as to the general public. With regard to horizontal accountability, Article 25 paragraph (1) of the Law on Judicial Power states that: "Any decision of the court in addition must include the reasons and basis for such decisions, also contains a specific section of the legislation in question or the source of unwritten law that made basis to judge.
6. The judge must uphold the value of objectivity. This is reflected in Article 29 paragraph (3) which states that a judge must step down in the examination of a case if he has blood ties with the parties involved in the process of these proceedings, either by the accused, prosecutors, lawyers, clerks, and fellow judges.<sup>5</sup>

Professional judge as one of the legal profession is often described as the giver of justice. Therefore, the judge also classified as a noble profession (*officium nobile*, or main), the profession which in essence is in human services and community. Every profession has ethics, which in principle consists of basic rules:

1. Professionalism should be viewed as a service; therefore, the nature of "selfless" is characteristic in developing the profession.
2. Put the interests of professional service in search of justice refers to good values.
3. Developing of the profession should always be oriented to the community as a whole.
4. Competition in the service took place in a healthy manner so as to ensure quality and improve the quality profession. As a professional in the field of law which is functionally the main actors in the administration of judicial authorities, judges are required to have a special expertise as well as in-depth understanding about the scope of duties and obligations. One element that distinguishes the profession of judges with other professions is the process of recruitment and special education

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5 Indonesia (b), of Law No. 4 of 2004 on Judicial Power, LN Year 2004 Number 8 TLN Number 4358, article 25 paragraph (1).

that is applied for each person who will carry out this profession.<sup>6</sup>

Furthermore, the process of education and training for prospective judges carried out at the beginning of the preposition and is closely associated with the recruitment of judges. Besides being used as an orientation program for prospective judges, training is also intended to be a means of selection of judges.

Training Program becomes the obligation of the participants to fulfil the internship for about a year as a candidate for ccivil sservants in domestic courts in the territory of Indonesia. Coaching programs that focus has not been seen on stage called Practical Training I. The training participants is still limited to staff employed as administrative court, until the moment they take the *Prajabatan* test, which is the phase of personnel selection in general. After going through the process of appointment and obtain the status of ccivil sservant, the participants engaged in classical training held centrally by the Centre for Education and Training (Training Centre) of the Department of Justice and Human Rights. At this stage, participants will receive a variety of materials expertise in law, and began to be prepared theoretically to assume office as a judge. If passed, the participants are required to meet the intern returned with status as a candidate for judge in various courts for a minimum of one year. At that stage called Practical Training II is applied to a development pattern that has already led to the execution of duties of judges. Next, Chairman of the District Court where the judge placed candidate will propose the participants who are considered eligible for appointment as a judge full. His appointment itself will be conducted by the President through Menhukham.<sup>7</sup>

What is the mechanism of recruitment of an individual to become a judge will determine the quality of court decisions in the future. Individuals who since the beginning does have capability and in-depth legal knowledge is only fitting netted in the recruitment of judges so that those who will sit in the front room as the leader of the trial court's judges are best qualified. In fact, many controversial court

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6 Wildfire Suyuti, "*Professional Ethics, Code of Ethics, and Justice in view of Religion*," in *Judges Code of Conduct* (Code of Conduct), the Code Justice and Related Papers, (the Court, 2006), p.. 26-28.

7Supreme Court, Working Paper Education and Training System Update Judge, (New York: Supreme Court, 2003), p.. 8-9.

decisions that continue to emerge so that the various parties to assess the judges in this country do not understand the sense of justice. Number of weakness or disability law in the decision issued by the judges could be an illustration of the ineffectiveness of the pattern of recruitment of judges that had been applied in Indonesia.

Rifqi S. Assegaf pointed out that the Supreme Court ruling on the case of Buloggate that frees the defendant Akbar Tandjung contains many weaknesses in terms of law and does leading to low-trust of some people to justice. Of the five judges in the panel which decided the case, two people are not a career judges but rather come from a political parties, while the rest are career judges. One of his non-career judges, namely Abdul Rahman Saleh filed dissenting opinion in the decision of corruption cases of non-budgetary funds such Bulog. Reflecting on Rifqi opinion about the quality of the verdict of this case, perhaps a difference of opinion between the judges they describe the disparity in quality between the judge and the non-career judges.<sup>8</sup>

Basically, there are at least three basic elements that must exist in the implementation of a function within the profession and any field. These elements are as follows:

1. Task, namely the obligation and the authority or power that must be implemented for later elaborated further on how to implement them.
2. Apparatus, which is executing the task which consists of components implementing, supporting, and support. .
3. Institutions, namely container (structure and organization) and its facilities and infrastructure where the officers do their job.

For an officer, to get a job means acquiring a responsibility related to three things, namely:

1. gained the confidence to be able to carry out the task;
2. is an honour as carrier task; and
3. is a mandate that must be maintained and operated.

Responsibility can be divided into three types, namely a moral responsibility, legal responsibility, and technical responsibilities of the profession. Moral responsibility is responsibility in accordance with the values and norms of professional life applied in the relevant

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<sup>8</sup> Rifqi S. Assegaf, "*Intervention vs. Mentality Judge General*," <<http://www.leip.or.id/www/detail.viewer.php?catid> August 3, 2009.

environment, both institutional as well personal for an institution that is concerned with the medium for apparatus. While the legal responsibility is defined as the responsibility that shall be paid to officials to perform their duties with no signs violate the law. While the technical professionalism is a claim of responsibility for officers to perform their duties in accordance with technical criteria professionally prevailing in the professional field of the officers, both general and specific provisions in the agency.<sup>9</sup>

Philosophically, the ultimate aim is the establishment of professional judges and justice. The goal of justice law in *das sollen* (normative fact) should be realized in *das sein* (natural reality) through the values inherent in professional ethics. One of the professional ethics that has long been the guideline of this profession since the early days of legal development in human civilization is The Four Commandments for Judges of Socrates. Code of ethics of judges consisted of four items below.

1. To hear courteously (listen with polite and civilized).
2. To answer Wisely (answer wise).
3. To Consider soberly (considering without any unaffected.)
4. To Decide impartially (deciding not biased).<sup>10</sup>

Islamic civilization also has a history of literature in the field of justice, one of which is still carrying the message of 'Umar ibn Khatab Khalfah to Musa Al-Ash'ari, a judge in Kufa, which in addition to revealing the importance of justice, how to check, and verification, also describes the professional ethics. In a treatise written code of ethics of judges, among others, the following:

1. Liken the position of the parties in the assembly, views, and decisions so that those who feel more noble not expect cheating judges, while the weak do not despair in an attempt to obtain justice judges.
2. Peace should always be sought among the parties to the dispute unless the peace that justifies anything forbidden or forbid the lawful.

In act, attitude and character is reflected in the emblem of the judiciary of judges known as the Panca Dharma Judge, namely:

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9 Kamil, *loc. cit.*, p. 2.

10 Suyuthi, *loc. cit.*, p.. 29.



1. Kartika, symbolizes the belief in one supreme God;
2. Chakra, meaning a judge is required to be fair;
3. Candra, meaning a judge must be wise or authoritative;
4. Sari, meaning a judge must be virtuous or not disgraceful; and
5. Tirta, meaning a judge must be honest.

Some of the legislation which has links with the judges and the judiciary to include and regulate all matters regarding the legal responsibilities of professional judges. Law No. 4 of 2004 on Judicial Authority to include some professional responsibility that must be obeyed by the judge, namely:

- a) that the judge must dig, follow, and understand the legal values and sense of justice who live in the community (Article 28 paragraph (1));
- b) that in considering the severity of the crime, the judge must consider the nature of good and evil of the accused (Article 28 paragraph (2)); and
- c) that the judge must withdraw from the trial if family ties are bound by blood or marriage up to the third degree, or conjugal relationship even after a divorce, to chairman, a judge, prosecutor, advocate, or the Registrar (Article 29 paragraph (3)).

Addition to the legislation outlining the professional responsibility of judges as the organizer of the judicial authorities in general, there are also provisions that specifically regulate the professional responsibility of the Chief Justice, namely Law No. 5 of 2004 on the Supreme Court. The law sets out provisions must be obeyed and the responsibility of the Chief Justice, including the following.

- (a) of Article 10 paragraph (1) states that the Supreme Court should not become a trap:
  - Clerk of the panel of judges.
  - implementing the decision of the Supreme Court;
  - guardian, holder, and officials relating to a matter which will or is being examined by him;
  - legal counsel; and entrepreneurs.
- (b) of Article 12 paragraph (1) states that the Judge dismissed the Supreme Court cannot with respect to the following reasons.
- (c) of Article 41 paragraph (1) states that the judge must withdraw from a trial if family relations incest atausemenda bound to the

third degree, or a relationship or isterimeskipun husband has divorced with one Judge or

- (d) of Article 41 paragraph (4) states if a judge who decided the case in the first level or the level of appeal, and has become the Chief Justice, the Chief Justice is prohibited from examining the same case.
- (e) of Article 42 paragraph (1) states that a judge is not allowed to prosecute a case that he himself was concerned, either directly or indirectly.

In addition to both the above, laws, regulations, other laws that specify the form of provisions regarding professional responsibility of judges is:

- (1) Of Law No. 3 of 2006 concerning Amendment to Law No. 7 of 1989 regarding Religious Judicature;
- (2) Of Act No. 2 of 2004 concerning Industrial Relations Disputes Settlement;
- (3) Of Law No. 8 of 2004 concerning Amendment to Law No. 2 of 1986 on the General Court;
- (4) Act No. 9 of 2004 concerning Amendment to Law No. 5 of 1986 on the State Administrative Court;
- (5) Of Law Number 24 Year 2003 regarding the Constitutional Court;
- (6) Of Act No. 14 of 2002 on the Tax Court; and
- (7) Of Act No. 31 of 1997 on Military Justice.

The last type of responsibility is the responsibility of the technical professions. In this type of responsibility, according to an assessment of whether or not the actions taken by the judge with the applicable provisions become the main concern. In addition, the assessment of performance and professionalism of judges in performing their duties is also a concern. Each judge demanded to be able to account for his actions as legal professionals, both inside and outside the service, material and formal. Therefore, it is an absolute thing for judges to understand in depth the rules of judicial procedure in court. The inability of judges accountable for their actions in technical or known as the unprofessional conduct must be considered a violation sentenced sanctions.

### **C. Justice System Control in Indonesia**

Apart from being the highest judicial institution in this country, the Supreme Court also has supervisory functions within the scope of judicial authority. Article 11 paragraph (4) of Law No. 4 of 2004 on Judicial Power states that the Supreme Court to supervise the actions of the highest court in the judicial environment that is below. Furthermore, Article 32 of Law No. 14 of 1985 on the Supreme Court as amended by Act No. 5 of 2004 concerning Amendment to Law Number 14 Year 1985 on the Supreme Court describes the forms of surveillance become authority of the Supreme Court follows:

1. Oversee the implementation of justice in all courts in carrying out judicial authorities.
2. Monitor the behaviour and actions of judges in all courts in performing their duties.
3. Inquiring about the things that concerned with the technical trial of all courts.
4. Provides guidance, reprimand, or warning that it is necessary to the court in all courts.<sup>11</sup>

Supervision and authority as referred to above must not reduce the freedom of judges in examining and deciding cases. From the above provision shows that that should be supervised by the Supreme Court is the course of justice (*rechtsgang*) with the aim that the courts carry out justice process carefully and appropriately.

Object supervision of the Supreme Court includes three cases, the technical field of justice that aims to improve the quality of the judge's decision, the administration that aims to improve legal services to the seekers of justice, and the field behaviour of judicial officials (judges and official court reporting), which aims to improve the performance of their functions justice in accordance with professional code of ethics of judges.<sup>12</sup>

#### *Internal Control Technical Area Courts*

What is meant by judicial or technical judicial is anything that the principal task of the judge that is to receive, examine, adjudicate, and

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11 Indonesia (d), Act No. 14 of 1985 on the Supreme Court, LN 1985 No. 73, article 32.

12 Suyuthi, *loc. cit.*, p. 79.

settle the case submitted to him. In this connection also include how the implementation of such decisions is made. The purpose of supervision in this context is to increase the judge's decision. Implementation of supervision in the technical field trial against the judge made through examination of the case, including through case examination to determine how far the judge has applied the procedural law carefully and appropriately in conducting proceedings.<sup>13</sup>

*Control of Internal Affairs Justice Administration*

Administration of justice is all things that become the main tasks in institute court reporting court (court of first instance and appeal within the General Court, the Religious, Military Justice, and State Administrative Court). Administration of justice needs to get control of the Supreme Court as it relates very closely to the technical trial. The problem the administration of justice should not be ignored to avoid the imperfections of a court decision. With the enactment of Law No. 5 of 2004 on the Supreme Court, the general administration (including administrative personnel and financial) that have been the authority of the Department of Justice and Human Rights became the authority of the Supreme Court.<sup>14</sup>

*Control of Internal Affairs Judicial Conduct Officer*

This control field behaviour and actions make the judge or judicial officer as the object of supervision. Implementation of monitoring the behaviour of judicial officials (judges and court reporting officer) is based on findings of irregularities committed by judges and court reporting officer, both based on the results of monitoring reports from internal and public reports, mass media, and other external oversight.<sup>15</sup>

IKAHI as the only container in Indonesia profession judge issued a decision in the National Congress (General Assembly) XIII in Bandung to establish a Commission of Honor Judge. Commission that in the past named the Honorary Board is intended to enforce the code of ethics of judges for any of its provisions can be implemented and overseeing the implementation. In addition, the Commission also authorized Honor Judge gave consideration and sanctions for judges who violate the code of ethics as a follow-up oversight functions. In

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13 *Ibid.*, p. 80

14 *Ibid.*, P. 81.

15 *Ibid.*, P. 81.

general, the duties of the Honorary Commission of Judges are as follows:

1. Provide guidance to the members to always uphold the code of ethics. The forms of coaching can be done through education, training, seminars, or other approaches that include material and spiritual aspects.
2. To examine and investigate reports or complaints from the public on the behavior of the members IKAHI.
3. Provide advice and notice to members in terms of the relevant members showed indications of ethics code violations.<sup>16</sup>

Meanwhile, who became Honorary Judge of the Commission powers are as follows:

1. Calling members to hear the information in connection with any complaint or report.
2. Provide recommendations on assessments against members who violate the code of conduct and recommended the members that are not proven guilty to be rehabilitated.

The absence of adequate provisions concerning the supervision and guidance system of how a judge should behave (code of conduct) is one of the factors that led to the birth of controversial decisions. During these guidelines about what is allowed and what is not allowed by the judge refers to Government Regulation No. 30 of 1980 on Civil Service Discipline Regulations and Code of Professional Ethics issued by Judge IKAHI. Status of judges today is no longer as Civil Servants (PNS), but as state officials, and code of conduct issued by IKAHI is still very common, does not regulate the behavior of judges in particular, and can not be used by the Supreme Court to take action against judges the contrary. In fact, the goal made a one-stop system is to provide broader oversight authority to the Supreme Court against the court.

Therefore, people feel the need to establish a mechanism for external oversight of the judiciary. Third Amendment of the Constitution of the Republic of Indonesia Year 1945 (UUD 1945) which was passed on November 10, 2001 has a significant impact on the country's constitutional system, particularly on the question of judicial authority. One big change is the increase in state institutions

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16 Suyuthi, *loc. cit.* p. 34-35.

within the scope of judicial authority, namely the Constitutional Court and the Judicial Commission.

Formation of these two institutions into the constitutional mandate in Chapter IX of the Judicial Power of Article 24 paragraph (2) and Article 24B. This latter institution is an auxiliary state agency (state auxiliary institutions) which has the function of supervision of judicial conduct.<sup>17</sup>

Judicial Commission (KY), which was established through Act No. 22 of 2004 on the Judicial Commission, a state institution by Article 24B of the 1945 Constitution mandated to have some authority, namely: (i) propose the appointment of Supreme Court justices, and (ii) maintain and uphold the honor, grandeur of dignity, as well as provisions in the constitution hakim.<sup>46</sup> behavior confirms that the Judicial Commission was formed to perform two functions, that is proposing the appointment of Supreme Court justices and supervise the implementation of codes of conduct of judges. A limited role is also listed in Article 13 of Law No. 22 of 2004 on the Judicial Commission.

Therefore, it is clear that the authority of the Commission Judicial no more than what is stipulated by the 1945 Constitution and Law No. 22 of 2004 on the Judicial Commission. Regarding the supervision of judicial conduct, Article 22 of the laws that describe the duties of the Judicial Commission in carrying out this responsibility, namely to accept the report public about judicial conduct, and conduct examination of the alleged violation of the judge, and make inspection reports and recommendations submitted to the Supreme Court and Constitutional Court, with copies to the President and the House of Representatives (DPR).

The Act No. 14 of 1985 on the Supreme Court, as amended by Act No. 5 of 2004 on the Supreme Court also gave oversight authority over the judges to the Supreme Court. Implementation of supervisory functions in the Supreme Court has been running through functional supervision and Honorary Board of the Chief Justice (DKHA). However, research shows that the functions of supervisory officials at the Supreme Court and High Court did not run effectively. In addition, DKHA, which according to the Supreme Court is an external and

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17 Winarta, *loc. Cit. p. 34*.

independent oversight, but in practice designated as the implementing internal controls.

#### **D. Conclusion**

Recent developments appear instead indicate that between the Supreme Court and the Judicial Commission both feel authorized to establish codes of ethics of judges, giving rise to a complex debate between the two institutions of the country. In fact, the public also felt the need to engage to resolve disagreements before they rise to the dispute inter-state authority.

Looking back what was written in 1945 presumably to make it easier to answer this question. As explained above, the limitations duties and authority of the Judicial Commission has stated clearly in Article 24B of the 1945 Constitution and further elaborated in Article 13 and 22 of Law No. 22 of 2004 on the Judicial Commission. And, none of which states that the Judicial Commission authority to create a code of conduct of judges-a profession that is not served by members of the Judicial Commission. It would be more effective and ethical if a code of ethics or code of conduct of a profession are prepared and determined solely by the concerned professional.

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