

Ethics Court as an Answer to the Need for Enforcement of Ethical Norms in a Modern Democratic System

Heber Hombang Sapan¹, Faisal Santiago²

^{1,2}Universitas Borobudur, Indonesia

Email: heber_bs@yahoo.co.id¹, faisalsantiago@borobudur.ac.id²

Keywords

Ethics Court; Ethical Norms;
Modern Democracy

ABSTRACT

In a modern democratic system, the enforcement of ethical norms is a crucial aspect in maintaining the integrity and public trust in state institutions and strategic professions. However, there are still many ethical violations that are not handled adequately due to the limitations of existing legal mechanisms, especially when the violations are not categorized as criminal acts. Therefore, the urgency of establishing an Ethics Court is becoming increasingly relevant as a means to enforce moral standards, clarify the boundaries of professional behavior, and provide proportional sanctions for ethical violations. The Ethics Court can function as an independent institution that bridges legal norms and social norms, strengthens the internal oversight system, and encourages the creation of a culture of transparency and accountability. This study aims to analyze the concept, needs, and possibilities of implementing the Ethics Court in Indonesia by reviewing various comparative studies and applicable normative frameworks. It is expected that the results of this study can be an initial contribution to the discourse on the formation of effective and adaptive ethics institutions in the context of contemporary democracy.

INTRODUCTION

In a modern democratic system, the existence of ethical norms is not merely a complement to the law, but an important pillar that supports the integrity of public institutions and the relationship between the state and its citizens (Tarigan, 2024). Ethics reflect the moral expectations of society towards the behavior of public officials and strategic professions—such as judges, prosecutors, police, legislators, and bureaucrats (Ismail Nurdin, 2017). These norms serve as guides in situations that are often beyond the reach of formal legal rules. In a healthy democracy, society demands not only leaders who obey the law, but also those who uphold ethical values such as honesty, justice, and responsibility (Subu, 2019).

However, in practice, many ethical violations are untouched by existing legal mechanisms. When someone commits an immoral act such as a conflict of interest, abuse of authority in a form that does not violate criminal law, or manipulation of public opinion, there is often no adequate accountability path (Sinaga, 2020). Positive law is not always able to reach these gray areas, especially if the violation is committed within the scope of office discretion. As a result, many cases that morally harm public trust, but legally remain "clean" (Aviano, 2022).

This inequality raises great concerns, especially in a democratic country based on the principle of accountability (Bakry, 2025). The public begins to lose trust because they feel that public moral standards are not being enforced seriously. Ethical scandals that arise in state

institutions are often only responded to internally and administratively, without transparency, so that the public feels marginalized from the value enforcement process. It raises a fundamental question: how can democracy survive if trust as its foundation continues to erode.

To understand this complexity, it is important to first understand what is meant by ethical norms. In the context of professions and public offices, ethical norms refer to standards of behavior that are set based on moral values, both those formulated in writing through a code of ethics and those that live in the collective consciousness of society (Satria, 2023). This norm functions as a counterweight to the power held by someone in a strategic position. It provides a boundary between what is appropriate and inappropriate, although it is not always illegal in the legal sense (Ridwan, 2024).

The difference between ethical norms, legal norms, and social norms is also important to emphasize. Legal norms are binding and accompanied by formal sanctions from the state (Amalia, 2025). Meanwhile, social norms are looser, depending on community recognition (Audina, 2019). Ethical norms have strong moral strength, sometimes supported by professional institutions, but often do not have a solid enforcement mechanism. Within this framework, the need for a system that can bridge legality and morality arises (Asshiddiqie, 2022).

Ethics have a strategic role in strengthening the democratic system (Susilawati, 2024). Amid freedom of speech, openness of information, and intense political competition, ethical norms become a moral anchor that keeps freedom from turning into chaos (Bahram, 2023). Public officials who uphold ethics can refrain from abusing power, even when the legal system provides loopholes (Bertens, 2020). Ethics help encourage responsibility, not because of fear of the law, but because of the urge of conscience and social awareness (Sihotang, 2020).

Public trust in state institutions is also largely determined by the ethical quality of its organizers. The public will tend to trust institutions led by individuals who demonstrate moral integrity, transparency, and consistency of values (Amiruddin, et al., 2025). When ethics are abused or only used as an administrative formality, that trust will slowly evaporate. It is a serious threat because democracy cannot function without legitimacy born from trust (Suarlin, 2022).

Unfortunately, ethical regulations in Indonesia are still weak and tend to be fragmented. Many existing codes of ethics are only symbolic, without real teeth in their enforcement (Trisakti, 2023). Often, ethical violations result in reprimands or recommendations, but not in sanctions that change behavior or provide a deterrent effect. The existing ethics monitoring institutions are not yet fully independent or transparent, thus raising public doubts about the integrity of the process (Said, 2021). Examples of ethical violations that are untouched by criminal law are numerous: officials who receive “subtle” gratification in the form of personal facilities from project partners, law enforcement officers who use their authority to influence public opinion, or people's representatives who ignore voters' aspirations for the sake of party interests. All of that is ethically problematic, but often cannot be prosecuted legally because they do not meet the elements of a crime. Therefore, these violations often only become news consumption, without adequate continuation of the process. When the law stops at its normative limits, ethics should take over as the protector of public morals (Hambali, 2021). However, without a special institution or mechanism tasked with enforcing ethical norms seriously and in a structured manner, these values will only become slogans. Democracy that loses ethics is

as dangerous as authoritarianism that loses the law. Therefore, this problem can no longer be considered trivial, because it concerns the future of democracy itself.

In a modern democratic system, ethical norms serve as the backbone of public institutions, ensuring that state power and strategic professions—such as judges, prosecutors, police, legislators, and bureaucrats—operate with integrity and public trust (Tarigan, 2024). These norms reflect society's moral expectations, serving as guidelines in situations where legal rules may not provide clear solutions (Tarigan, 2024). In a healthy democracy, citizens demand not only that public officials adhere to the law, but also that they embody ethical values such as honesty, fairness, and responsibility (Subu, 2019).

However, the enforcement of these ethical norms faces significant challenges, particularly when ethical violations do not constitute criminal acts. In Indonesia, many ethical breaches, such as conflicts of interest, abuse of power, or manipulation of public opinion, go unpunished due to the limitations of existing legal frameworks. As of 2021, a study by the Indonesian Transparency Institute reported that over 60% of cases involving public officials' misconduct lacked sufficient legal recourse due to the absence of specific regulations addressing ethical violations. This gap has led to growing concerns about the erosion of public trust, as citizens increasingly perceive that moral misconduct is overlooked or inadequately addressed (Sinaga, 2020).

This issue highlights the research gap that this study aims to fill: the lack of a comprehensive mechanism for enforcing ethical norms in Indonesia's legal system. Existing legal provisions focus primarily on criminal and civil cases, leaving ethical violations in a gray area that undermines public confidence in democratic institutions. The novelty of this research lies in proposing the establishment of an *Ethics Court*, a dedicated institution that would bridge the gap between legal enforcement and moral accountability. Such a court would serve as an independent entity to uphold ethical standards, even in cases that do not meet the criteria for criminal prosecution.

The objectives of this study are to analyze the concept, urgency, and feasibility of establishing an *Ethics Court* in Indonesia, assess the potential benefits of such an institution in strengthening the integrity and transparency of public institutions, and explore comparative models from other countries to evaluate their applicability in the Indonesian context. The benefits of this research include providing a theoretical and practical foundation for the creation of an *Ethics Court* in Indonesia, offering insights into how such an institution could improve public trust in state institutions and enhance moral governance, and contributing to the ongoing discourse on the role of ethics in modern democracy, particularly in countries facing challenges in balancing legal accountability and moral integrity.

METHOD

This study employed a normative legal method, focusing on the analysis of written legal norms as the primary material to address the research problems. The analysis centered on existing laws, regulations, and official documents that governed ethical norms and their enforcement mechanisms, both nationally and internationally. The normative legal method was selected because it aligned with the research objectives of exploring the concept, urgency, and

feasibility of establishing an *Ethics Court* in Indonesia, a mechanism that, at the time, did not have explicit regulation within the country's legal system.

Additionally, the study incorporated a comparative approach to analyze ethics systems and enforcement institutions in countries such as Canada, the Netherlands, and the United Kingdom. By examining these international models, the research aimed to identify best practices and assess how these systems could be adapted to the Indonesian context, considering its democratic culture and legal framework. This comparative analysis enhanced the applicability of the findings and assisted in proposing a relevant and feasible model for Indonesia's *Ethics Court*.

The approach was chosen to address the concept, urgency, and possibility of establishing a new institution—the *Ethics Court*—which was intended to fill the gap in the ethics enforcement system that had not been explicitly regulated in the Indonesian legal system. The study also relied on comparative analysis as an auxiliary method, examining the ethics systems and enforcement institutions in other countries as comparative material. This analysis was important to observe how other countries responded to similar needs and to assess the possibility of adapting the model within Indonesia's legal framework and democratic culture. Secondary legal materials, such as academic literature, law journals, scientific articles, and expert opinions, formed an important part of the data sources to provide a comprehensive conceptual understanding. This approach was expected to enable the research to offer ideas that were not only theoretical but also applicable and contextual in addressing the need for enforcing ethical norms in the era of modern democracy. The combination of normative and comparative methodologies, along with secondary legal data, allowed the study to provide both theoretical insights and practical, adaptable solutions for enforcing ethical norms in modern democracies.

RESULT AND DISCUSSION

The Ethic Court Concept and Model

The Ethics Court is a form of non-judicial institution specifically designed to handle violations of ethical norms committed by public officials, certain professionals, or individuals in strategic positions. Unlike judicial institutions in the criminal or civil legal system, the Ethics Court does not function to try acts classified as criminal acts or violations of positive law but rather focuses on violations of professional moral and ethical standards. This institution is administrative and corrective, not repressive or coercive, and functions as part of the integrity monitoring and enforcement system. In this context, the Ethics Court is more appropriately positioned as an instrument for forming a healthy and ethical professional culture in both public and private environments.

The key purpose of establishing the Ethics Court is to maintain moral standards in carrying out public duties and to strengthen the accountability of the profession to the public. When someone holds a strategic position or has power that affects the public interest, the public not only demands obedience to the law but also places expectations on moral attitudes and personal integrity. The Ethics Court is tasked with assessing whether someone in that position has violated basic values such as honesty, fairness, transparency, or professionalism, even if their actions do not fulfill the elements of a formal violation of the

law. In this context, the Ethics Court becomes a kind of bridge between the moral expectations of society and the legal framework that tends to be rigid and technical.

Structurally, the Ethics Court should be independent and free from the influence of political power or institutional interests. The composition of its membership should ideally reflect diversity and integrity: consisting of professional elements (for example, representatives of professional associations or ethics organizations), academics who have a deep understanding of legal ethics and public governance, and community figures who are known to have high moral reputations. This kind of structure provides moral legitimacy to the decisions made and maintains objectivity and public trust in the institution.

In material competence, the Ethics Court only handles violations of the code of ethics and professional moral standards, not criminal or civil cases. It means that this institution does not have the authority to impose prison sentences or fines in the sense of criminal law. The focus is on the provision of ethical sanctions such as written warnings, public apologies, demotions, and revocation of membership rights in a particular profession or position. In some respects, this authority is similar to that held by the Honorary Council in professional institutions such as the IDI (Indonesian Doctors Association) or the Press Council, but its scope can be broader and cross-sectoral.

The Ethics Court needs to be equipped with formal authority to summon the reported party, examine witnesses, and request related documents. In several countries, this kind of authority is guaranteed by special laws that provide a solid legal basis for administrative actions by ethics institutions. In Indonesia, several such institutions already have partial legitimacy, for example in Articles 13 and 14 of Law No. 14 of 2008 concerning Public Information Disclosure which regulates the existence of the Information Commission as a non-judicial dispute resolution institution, the model of which can be used as an initial reference. Likewise, in the KPK Law (Law Number 19 of 2019), there is a KPK Supervisory Board that has the authority to assess ethical violations by the institution's employees.

A fairly well-established model of ethics institutions can be found in Canada through the existence of the Conflict of Interest and Ethics Commissioner, an independent institution that monitors parliamentarians' compliance with the Conflict of Interest Code. This institution can conduct investigations on its own initiative or at the request of parliamentarians, and the results of its investigations are made public as a form of accountability. In Europe, Germany and the Netherlands have ethical oversight systems embedded in parliamentary structures and professional bodies, with open ethics hearing mechanisms for significant cases. This system provides space for the public to know how moral violations are processed while also putting social pressure on officials or professionals who are deemed ethically unfit.

The United Kingdom, known for its Westminster-style democracy, also pays special attention to enforcing the code of ethics in parliament. Through the Parliamentary Commissioner for Standards, all parliamentarians are bound by a Code of Conduct that includes prohibitions on conflicts of interest, accepting gifts, and abuse of office. This commissioner can conduct investigations and recommend sanctions to the Committee on Standards, which will determine further action. The transparency of this process and the

public reporting make the ethics institution in the UK a concrete example of how ethics are maintained systematically in a complex political environment.

From these studies, it appears that a strong and structured ethics institution can fill the gap left by positive law, especially in dealing with violations that damage public legitimacy but cannot be prosecuted criminally. The key to the success of these institutions lies in institutional independence, clarity of authority, and courage in announcing the results of decisions to the public. In the midst of Indonesia's ever-developing democracy and increasingly complex ethical challenges, the discourse on the establishment of an Ethics Court is relevant to building a system that is more morally responsible and institutionally transparent.

Potential Implementation of Ethics Courts in Indonesia

The urgency of establishing an Ethics Court in Indonesia is increasingly apparent along with the increasing cases of ethical violations by public officials and individuals in strategic positions that have a broad impact on public trust. In recent years, the public has repeatedly witnessed public figures involved in inappropriate behavior, ranging from conflicts of interest, and abuse of authority, to insensitivity to public issues. Although legally formal these actions do not always fulfill the elements of a criminal act, their impact on the credibility of the institution is very large. This has caused public frustration due to the inability of the existing system to provide a firm response to moral violations that are carried out openly.

The imbalance between public expectations and available oversight mechanisms is one of the fundamental problems that must be addressed structurally. The public now has high expectations for transparency and accountability, especially in the digital era where information spreads quickly. Unfortunately, the tools currently available are often not flexible enough to handle cases of ethical violations that are complex and contextual. Existing oversight institutions tend to be sectoral, limited to certain administrative or functional areas, and are often unable to reach the gray areas in the public ethical deviations.

The main challenge in implementing the Ethics Court is the absence of a legal basis that specifically and firmly regulates the existence and working mechanisms of the institution. Unlike general courts which are regulated in the Criminal Procedure Code and the Law on Judicial Power, the space for ethics institutions is still limited, spread across various sectoral regulations, and does not yet have equal institutional recognition. Without a strong legal basis, efforts to establish an Ethics Court are vulnerable to being considered an ad-hoc institution whose decisions are not binding or easily ignored.

In addition to legal issues, the potential for overlap with other supervisory institutions is a serious challenge. Currently, various institutions have their code of ethics systems and supervisory mechanisms, such as the Council of Ethics in the DPR, the Press Council, the Election Organizers' Honorary Council (DKPP), and the ASN Commission. The Ethics Court needs to be designed carefully so as not to take over the role of these institutions, but rather to complement and strengthen the overall supervisory framework. One possible approach is to make the Ethics Court a coordinating forum or final appeal mechanism in cases of cross-sectoral ethical violations.

The issues of independence and legitimacy are equally important challenges. An ethics institution will never be effective if its existence is considered merely a political tool or symbol. Therefore, the member selection process, funding sources, and accountability mechanisms need to be designed with the principles of transparency and high public participation. Public trust in an ethics institution can only be built if it works without political pressure, without conflicts of interest, and can act firmly against violations, even if they are committed by influential figures.

Although the challenges are quite large, the opportunity to strengthen the national ethics legal framework through the establishment of an Ethics Court is wide open. One strategy that can be taken is to integrate the role of the Ethics Court into the internal supervision system in various state institutions and professional organizations. That way, this institution does not stand outside the existing system, but becomes a strengthening node of various supervisory units that are spread out and sometimes not connected. It allows for the creation of more consistent and measurable ethical standards.

Harmonization of regulations on codes of ethics is also an important step in strengthening the legitimacy of the Ethics Court. Many professional organizations and public institutions in Indonesia have their codes of ethics, but not a few of these regulations are general, loose or have unclear implementation mechanisms. Revision and standardization of the code of ethics through a cross-sectoral approach can help provide a strong foothold for the Ethics Court in assessing violations and imposing sanctions fairly. It allows for the formation of universally applicable ethical principles in the public power implementation. The role of civil society in ethics oversight also needs to be recognized as an important component in the institutional design of the Ethics Court. Civil society organizations, the media, academics, and even individual citizens can function as independent monitors of practices that are inconsistent with public values. Involving the public in the process of reporting, monitoring, and evaluating the decisions of the Ethics Court can strengthen the accountability of the institution while keeping it grounded in the public interest. Without active public participation, the Ethics Court risks becoming an ivory tower that is insensitive to evolving social dynamics.

CONCLUSION

The *Ethics Court* emerged as an innovative response to the inadequacies of existing legal mechanisms in upholding ethical norms, particularly within modern democracies that require high levels of accountability and transparency from public officials and strategic professions. Unlike traditional courts, this institution serves as an independent forum dedicated to maintaining public integrity and morality by enforcing ethical standards, effectively bridging the gap between social norms, legal frameworks, and public morality. Its potential to strengthen substantive democracy and foster a culture of responsibility hinges on a clear legal foundation, institutional legitimacy, and robust political and social support to ensure it functions as a credible ethical oversight body rather than a symbolic gesture. For future research, it is suggested to conduct cross-disciplinary studies and develop a comprehensive, participatory legislative roadmap that not only establishes regulatory clarity but also integrates ethics

education, leadership training, and the cultivation of ethical institutional cultures from an early age, thereby building a collective national character that balances freedom with responsibility.

REFERENCES

- A. A., Sarifuddin, Ilham, A., Muhammad, D., Badrullah, & Adijah S., A. (2025). *Pemimpin Humanis Berintegritas*. Klaten: PT. Nas Media Indonesia.
- Amalia, M. B. (2025). *Teori Hukum Positif*. Jambi: PT. Sonpedia Publishing Indonesia.
- Asshiddiqie, J. (2022). *Peradilan Etik dan Etika Konstitusi: Perspektif Baru tentang Rule of Law and Rule of Ethics & Constitutional Law and Constitutional Ethics (Edisi Revisi)*. Jakarta: Sinar Grafika.
- Audina, P. M. (2019). Norma-norma Dalam Masyarakat. *Jurnal Kewarganegaraan*, 2(1), 1-5.
- Aviano, M. S. (2022). Pertanggungjawaban Pejabat Pemerintah Yang Menggunakan Diskresi Menurut Hukum Positif Di Indonesia. *Jurnal Hukum dan Kenotariatan*, 6(2), 1297-1325.
- Bahram, M. (2023). Tantangan Hukum Dan Etika (Rekayasa Sosial Terhadap Kebebasan Berpendapat Di Dunia Digital). *SENTRI: Jurnal Riset Ilmiah*, 2(12), 5092-5109.
- Bakry, K. A. (2025). *Hukum Tata Negara: Teori dan Penerapan Hukum Tata Negara di Negara Demokrasi: Teori dan Penerapan Hukum Tata Negara di Negara Demokrasi*. Jambi: PT. Sonpedia Publishing Indonesia.
- Bertens, K. (2020). *Etika Profesi*. Yogyakarta: PT Kanisius.
- Hambali, M. R. (2021). *Etika Profesi*. Bojonegoro: Agrapana Media.
- Ismail Nurdin, M. S. (2017). *Etika pemerintahan: Norma, konsep, dan praktek bagi penyelenggara pemerintahan*. Lampung: Lintang Rasi Aksara Books.
- Ridwan, M. D. (2024). Kode etik dan penegakan hukum dalam konteks positivisme hukum di Indonesia. *JURNAL ILMIAH NUSANTARA*, 1(4), 242-249.
- Said, H. M. (2021). Menggagas Peradilan Etik Penyelenggara Negara Di Indonesia. *Sasi*, 27(1), 24-37.
- Satria, C. H. (2023). *Buku Ajar Etika Profesi*. Jambi: PT. Sonpedia Publishing Indonesia.
- Sihotang, K. (2020). *Etika kerja unggul*. Yogyakarta: PT Kanisius.
- Sinaga, N. A. (2020). Kode etik sebagai pedoman pelaksanaan profesi hukum yang baik. *Jurnal Ilmiah Hukum Dirgantara*, 10(2).
- Suarlin, S. &. (2022). *Demokrasi Dan Hak Asasi Manusia*. Banyumas: Penerbit Widina.
- Subu, Y. Y. (2019). Aktualisasi Moralitas Dalam Kehidupan Berpolitik. *Jurnal Masalah Pastoral*, 7(1), 1-15.
- Susilawati, E. &. (2024). Etika dalam Pendidikan Politik (menghadapi bias dan propaganda). *Jurnal Pendidikan Kewarganegaraan dan Politik*, 2(2), 93-112.
- Tarigan, R. S. (2024). *Menuju Negara Hukum Yang Berkeadilan*. Banjar: Ruang Karya Bersama.
- Trisakti, F. M. (2023). Pentingnya Etika dan Akuntabilitas di Indonesia. *Jurnal Dialektika: Jurnal Ilmu Sosial*, 21(1), 25-36.