The Enforcement Of Ethics Of State Officials In The Indonesian Legal System

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Abstract: The enforcement of the ethics of the state organizers has given a stronger picture of the effort to create moral and ethical values and justice of the society, in the context of making a state of integrity. To realize the implementation of the state that beritegritas should use instruments that can reduce corruption by fostering ethical awareness and morality of public officials, should be more normative, humane and religious. It can also be done by providing education and a more ethical understanding, about the morality, values and norms of life, especially for the profession in coaching and education, or during the recruitment process.

Keyword: Enforcement, ethics, legal system

Introduction

Law enforcement is the enforcement of remedies, or the functioning of legal norms significantly as a code of conduct in the legal relations in the society and state. According to Satjipto Rahardjo, Law Enforcement is a series of process to describe the value, idea, abstract ambition to become concrete goal. The goal of law contains moral values, such as justice and truth. Those values can be manifested in factual reality.¹ Similarly, Bernard L. Stated that law enforcement is a task performed by law enforcement officials. Because that is a task, such as Kant says, is "a categorical obligation", "absolute obligation". Law enforcement here do not recognize the term "with the condition". The task is a task, must be carried out.²

The practice of law by law enforcement that occurred in Indonesia always refers to the legitim thinking as the main characteristic of legal positivism. The law enforcement phenomena occurring in Indonesia during the last decade illustrate the law enforcement process which has caused controversy, polemics, certain forms of opposition, protests or harsh criticisms from various circles.³ The reform era has the will to realize the government to be pure and clean from corruption, collusion, nepotism.⁴ It's a form of law enforcement has become a phenomenon until the XXI century, law enforcement is still far from expectations. there is even a trend in law enforcement has lost its function when the parties involved regarding the officers of law enforcement agencies, authorities and entrepreneurs (the rich).

Observing the law enforcement happens at this time have described the increasing distance from the justice community. Various court rulings have not given a sense of justice for the people, so that the legal legitimacy is questionable. In another aspect, the incidence of anxiety of impending shock that occur in prisons are caused by the correctional Institution have been met by the perpetrators of criminal acts, as a result of the prisons, about frequent conflicts among the inhabitants of prisons and prison officers, which tends to occur victim and even burning prison. Besides the phenomenon of corruption by the organizers of the country continue to rise makes pemasayarakatan agency was getting narrower, because corruption continues to increase. Corruption is a disease of the soul a desire to own property in ways that are not justified by legal norms. Corruption is like an infectious disease spread and permeate the human body, which if not prevented would make the body become damaged, diseased and full life with anxiety, the impact will eventually die. Corruption jusru damage the joints society, nation and state, a nation makes it difficult to rise from adversity and bankruptcy.

One aspect that requires attention is how to prevent the organizers to refrain from unlawful acts and corrupt, to prevent penyelenggara state of corruption, is through the enforcement of state ethics organizer. Increased symptoms overloaded residential correctional institutions are increasingly overloaded, and therefore an increase in occupancy of prisons overloaded make correctional institutions function becomes ineffective. Ineffectiveness of correctional institutions (prisons), has evolved into a crime school (school of criminals).⁵

Meanwhile, symptoms of ethical violations of state officials in fact have been able terdeksi of behavior everyday ranging from lifestyle (lifestyle), and daily habits, such as the behavior of luxury living and extravagant, sexual behavior deviates, even the behavior deviant who
are violent towards others eg being rude to my wife and children, or be rude to subordinates. If such behavior is in the County’s organizers it can definitely be inclined to abuse his power and stay waiting time state officials concerned will engage in corruption. Therefore, enforcement of ethics state official will be a necessity to prevent The County’s Organizers do not commit violations of the law which would have implications for corruption that financial harm state. Ethics in its development greatly affects people's lives, ethics of state officials in order to give orientation how to live through a series of action-days, and sehar ethics helps people to take a stand and act appropriately in life. Ethics helps to take a decision on what action needs to be done and needs to be understood that ethics can be applied in any form aspects or facets of life.iii

Today the organization of the country is still faced with conditions not in accordance with the needs and changes in the various fields of social, civic, and bernegara. Can be caused by the unpreparedness to respond to the transformation of vast dimension value and the impact of various development issues that complexes. As a new order of Indonesian society faced with the global challenges of the expectations and fueled by advances in science, information, communication, transport, investment, and trade.

Discussion

Orient normative ethics (which is about what it should be) for one's decisions and actions so that decisions and actions of the so-called morally good.iv Ethics is the attitude and behavior of the human family in everyday life that with individual moral and ethical is not only associated with concrete actions but also includes the motive of an action taken by a person. The organizers state is any public official entrusted with the task in relation to public service in order to carry out the task of servicing the public both at central and local levels, both within the legislature, the executive (officials within the government, and the judiciary (within the judicial power), the organizer of the state in implementing functions (duties and authorities) are always tied to the norms of law, ethics, and local customs (local wisdom).viii

Philosophically, the regulation is an attempt to limit the power of the possibility of it movement over his own instincts, which ultimately leads to the abuse of power.v Each state officials should be subject to legal norms governing the duties and authorities that it is set in a limited manner in laws or regulations others. Meanwhile ethical issues have not been regulated and is not attached to the duties of state officials, this was due to ethical problems have very large dimensions, often there is a clash between ethics, so the problem is which one should take precedence, enforce ethics or enforce the law first, atukah enforce ethics and uphold the law can be carried out simultaneously.

Enforcement of ethics, coincided with enforcing the law has been demonstrated by the Council honor Election and Constitutional Court at the same time DKPP check claim violations of the code of conduct of the general elections of President and Vice-President of the Year 2014, and at the same time the Constitutional Court to hear lawsuit over infringement law made by a relatively Penyelnggara Election (Election Commission and the Election Conrfol Agency). It becomes, because at that time DKPP in examining and deciding the lawsuit does not wait for the decision of the Constitutional Court, as well as double check and decide Court in the lawsuit did not wait for the results of DKPP. This situation shows that ethical issues have a different dimension to the violation of the law, even though the ethical breach to implication on lawlessness and also has implications for ethics violations.

The code of conduct is expected to function to educate and guide voluter voluntary consciousness based on self consciousness without actually enforced by force. This is the reason, at the end of the 20th century emerged a new awareness of the importance of institutionalizing mengenai enforcement agency code of conduct to ensure the proper functioning of the infra-structure systems with effective ethics. System of ethical norms is not enough just positivism in the form of imposition of a code of ethics and code of conduct. System code of ethics and code of conduct should be actually enforced functionally with effective institutional support.

Therefore, from the end of the 20th century, the idea to build the institutional infrastructure of enforcement code of ethics, especially in the public positions that require trust. In the United States, for example, many ethics commissions formed for the purpose of enforcing the code of conduct in positions of executive, legislative, and judicial. In fact, of the 50 states, there are already 42 states of the USA who managed to build a complete infrastructure system, including a code of ethics and the institutionalization of Ethics Commission for enforcement. This is in line with the recommendations of the United Nations (UN) that the General Assembly in 1996, recommends that UN member states to develop what is called a ethics infra-structures in public offices. Infrastructure encompasses understanding of the code of conduct and code of ethics enforcement agencies. The establishment of enforcement agencies this code of conduct is clearly intended for the system code of ethics and code of conduct established and enforced earnestly implemented.
and enforced by an effective system of sanctions for the offenders. This is a new era that I call as a stage of development that is both functional ethics.

Enforcement agencies have code of ethics called the Ethics Committee, the Honorary Council, or the Committee on Ethics, everything functioned to examine the reports or complaints and re-enforcing the code of conduct for offenders by imposing strict sanctions. However, in the development at this stage, as practiced everywhere in the world, enforcement mechanisms common code of conduct referred to in private, because the consideration is very logical, that the ethical system is basically a relationship an association that is personal or private. Therefore, the examination process ugaan code violations usually done in private. Most of the old engertian about the ethics of a personal nature that the power did come from a boost internal awareness of each individual or imposed om within, still embedded in institutional management mechanism of enforcement code of ethics.

Enforcement Ethics

Implementation of the law by conventional methods and business as usual way does not help a lot of effort to get out of the crisis of law, in fact, law enforcement seems to be running in the same place. Therefore, like it or not, the incredible effort that is required to immediately liberate Indonesia from law enforcement crisis.

Enforcement of ethical absolute state administrators must be done to prevent the official concerned is not committing an offense which could lead to loss of state (corruption). Enforce the law, in contrast to enforce ethics, due to uphold ethics, do not have to wait until there is a legal violation. While the law was too rigid enforcement has been a major weakness in law enforcement tend to ignore the public sense of justice because he prefers legal certainty. Prosecuting in reality is not a mere juridical process. The judicial process is not only the process of applying the articles and sound legislation, but rather a process that involves behaviors of society and takes place in a particular social structure.

Required by the formulation of a code of conduct that is binding for all state officials and state administrators ethics formulation is not defined solely by the institutions of state administrators who tend exklusif. Ethical enforcement practices have only done each state administering agency, such as the Code of Ethics of Judges, the Prosecutor's Code of Ethics, Code of Police, and enforcement of codes of conduct was carried out by the institution or agency concerned. Enforcement of the code of ethics that done by institutions or government institutions tend to be ineffective, even no impact on preventing an official to violate the law, even the enforcement of ethics that may be precisely aimed at protecting the officials concerned of the allegations of ethical violations. Institutions keeper internal code of conduct that is likely to be ineffective, because it was time to set up a body or guardian council code of conduct of state officials. Enforce the code of ethics of state officials can be done before the official state officials melakukjan act, unlawful, since ethical violation that has to be detected and caught early, whether it daari behavior of everyday officials concerned as well as the complaints of people who know that the officials concerned have been doing code violations, such as no official state officials who often go out into the night entertainment venues, or place of prostitution, while not carrying out duties on the ground, minimum hard-drinking habits, habits of gambling and other deviant behavior. Enforcement of the code of ethics, essentially aims to make state officials more authority and integrity, as well as to prevent the behavior of officials of the organizers of corruption.

Enforcement system code of ethics and code of conduct at this stage have not been associated with the notion of justice. Enforcement of the code of conduct has not construction as the judicial process, as it is known in the modern world that justice must be transparent; rbuka. Code of ethics enforcement agency is not yet understood or known as a judicial body, in particular the court ethics commensurate with the notion of justice in the legal field. Therefore, in this fourth stage, the development of what I call an ethical system as the stage of development of functional when closed. Ethics enforcement system is still closed and not to apply modern principles of justice as understood in law. In practice in Indonesia today, codes of ethics enforcement mechanisms are closed also continue to be applied in all areas of ethics. In the field, we have established a Judicial Commission that are specifically regulated existence in Article 24B of the 1945 Constitution in the legislative field, the Law on MPR, DPR, DPD and DPRD (MD3) also determine the weight of Honor, in both the House of Representatives (House of Representatives People) and DPD (Regional Council representative). In the neighborhood of KPK (Corruption eradication Commission) can also be formed is the Honorary Council ing is adhoc. Similarly, in the Constitutional Court and the Supreme Court can be established the Honorary Council of Judges (MKH) at any time required. However, all the institutions adhoc or eraman, in the way it works to uphold a code of ethics, justice has not ikaikan with a sense of ethics or conduct trials were constructed as ethical court, but only as a code of conduct regular enforcement agency, the operation of which is understood to be discreet, a
swept away old habits in understanding the phenomenon of ethics as a rule of the private basing its power because imposed from within, not imposed from without as legal norms.

Stage of development of functional ethics that are closed and continued to grow in the world until now. In Indonesia too, as described above, the development of the fourth stage that are closed it also continues to be a habit. As a result, the process of enforcement of the code of conduct can not be justified independently and open to the public today demands openness, transparency, and accountability in the wider public in all areas of life as a prerequisite for the realization of the principles of good governance. Without transparency and public accountability, quality control assurance to the ethics enforcement process that is independent, honest, and just can not possibly meet. If the examination process and judicial are closed, the degree of objectivity, integrity and independence of course can not be accounted for. During the process of enforcement of the code of conduct is not open, it can not be expected lack of public accountability which guarantees objectivity, impartiality, professionalism, integrity, and credibility. In turn, who can be assured that the process of enforcement of the code of conduct that seriously trust. If the process can not be trusted, how can the result will be trusted by the people who continue to grow increasingly open for the democratic system adopted.

Therefore, as long as these are all cases of alleged violations of the code of ethics in various professional organizations, in various state institutions, and government agencies, and community organizations, tend to be protecting, not really enforce a code of ethics. That applies is ewuh-pekewuh culture. For example, the Assembly Honorary Doctor, tend to protect and defend the interests of the doctors themselves, compared to meet the demands of patients. So is the professional organization of accountants and lawyers usually only protect his friends rather than clients. As a result, enforcement of ethics becomes effective, professional ethics do not grow and develop in accordance with the development needs of the times, while the demand for professional services is getting better, and consumers and clients of their rights to grow into a more critical and open, resulting in a demand to develop an approach of criminalization of malpractice cases in a professional service.

Such demands are reflected in the policy of criminalization of institutionalized through the legislative process in the House with the noble intention to protect consumers. Such a policy appears, for example, the various products of the new law, such as the Law on Medical Practice, Law Notary, legislation to regulate the accounting profession, the Law on Advocates, and so forth. Attempt to criminalize this is deemed necessary to do the maximum effort, because the professional ethics system was not functioning to control and guide the ethics and behavior of professionals in their respective fields. As a result of the growing tendency of criminalization have emerged havoc in the professional world, so that in case of demonstrations physicians around Indonesia show solidarity to defend the fate of a doctor in Manado experiencing criminalization. Notaries and accountants are also active mem-persoalkan criminalization policy against their own profession. But the answer does not lie in the system work ethics of the profession itself. If effective professional ethics and code of ethics enforcement mechanisms function well and reliably, then undoubtedly attempt to criminalize it is not at all necessary.

The formation of the Honorary Council of Judges of the Constitutional Court on the alleged violation of the code of conduct by Judge Arsyad Sanusi, and the Honorary Council of Judges Supreme Court on alleged violations of the code of conduct by Judge Ahmad Yamani, SH It can also be used to describe the closed system poor. When the trial judge Arsyad Sanusi, Honorary Council of Judges of the Constitutional Court convened in a closed session and the results Arsyad Sanusi was asked to resign for early retirement, exactly the same with Justice Ahmad Yamani few months later, was also given the opportunity to apply for early retirement, without clear whether it violates the code ethical or not. Whereas, for the same case with Arsyad Sanusi at the Constitutional Court, the Honorary Board of the General Election Commission (DK-PKU) check one KPU member Andi Nurpati on complaints of violations of the code of conduct which is alleged to have done in the case involving the Constitutional Justice Arsyad Sanusi and Candidates legislature in 2009, Dewi Yasin Limpo. (DK-KPU) examination results by the Commission in proceedings which are open to the public to prove that Andi Nurpati committed offenses in several places, including in connection with the case Arsyad Sanusi and Dewi Yasin Limpo, so therefore, Andi Nurpati dismissed from membership in the Commission of Public Election, While the Honorary Council of Judges of the Constitutional Court did not to say that Judge Arsyad Sanusi violating the code of conduct, but only received good intentions Judge Arsyad Sanusi to apply for early retirement from the post of the Constitutional Court.

Tradition actual enforcement of codes of conduct through an open process is spearheaded by Commission since 2010, and forwarded by DKPP until now, Good, Commission in 2010 and 2011, as well as DKPP formed since 2012, myself so as
to sustainably implement the principles of modern justice that is objective, impartial, professional, open, transparent, accountable, and integrity. Within two years since its establishment in June 2012, The Honorary Council of the General Election Organizer itself recorded to have dismissed permanently or fire commissioner General Election Commission or the Election Oversight Body throughout Indonesia, as many as 126 people, and more than 100 of the people given a warning ranging from mild reprimand to reprimand. All this is done openly as a guarantee public accountability by applying all the principles of modern justice, known in the legal world. Therefore, I call this last development stage as the stage of development of functional ethics open. From here we can introduce the concept of judicial ethics (court of ethics) in addition to the recognizable notion of justice in the realm of law (court of law).

Conclusion
The enforcement of the ethics and the privileges of state officials has not been able to prevent the state organizers from conducting violent behavior which resulted in corruption. In order to realize the implementation of the state which has the right to use the legal instrument in the form of the law of ethics and the honor of the organizers shall be immediately enacted so as to form an ethics judiciary.

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